Chapter 36 ZONING[1]

ARTICLE I. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. IN GENERAL

Sec. 36-1. Preamble.

In accordance with the authority and intent of Act No. 110 of the Public Acts of Michigan of 2006 (MCL 125.3101 et seq.), the city desires to provide for the orderly development of the city, which is essential to the well being of the community, and which will place no undue burden upon developers, industry, commerce, or residents.

The city further desires to assure the provision of adequate sites for industry, commerce, and residences; to provide for the free movement of vehicles upon the proper streets and highways of the city and to facilitate adequate and efficient provision of transportation systems; to protect industry, commerce, and residences against incongruous and incompatible uses of land, and to promote the proper use of land and natural resources for the economic well-being of the city as a whole; to assure the provision of adequate space for the parking of vehicles of customers using commercial, retail and industrial areas; to meet the needs of the city's residents for food, fiber, and energy; to limit the inappropriate overcrowding of land and congestion of population, transportation systems and public facilities; to further adequate provision of sewage disposal, water supply, energy, education, recreation and other public service and facility needs; and that all uses of land and buildings within the city be so related as to provide for economy in government and mutual rapport.

The result of such purposes of this chapter, which relates to the city's comprehensive development plan, will promote and protect the public health, safety, comfort, convenience, and general welfare of the residents, shoppers, and workers in the city.

(Ord. No. H-07-01, § 1.101, 7-24-07)

Sec. 36-2. Short title.

This chapter shall be known as the zoning ordinance of the City of Dearborn Heights.

(Ord. No. H-07-01, § 1.102, 7-24-07)

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[1]Editor's note(s)—Ord. No. H-07-01, adopted July 24, 2007, deleted Ch. 36 in its entirety, as if superseded by said ordinance, and supplied provisions for a new Ch. 36 to read as set out herein. Former Ch. 36 pertained to similar subject matter. For a complete history of former Ch. 36 see the Code Comparative Table.

Cross reference(s)—Any ordinance pertaining to rezoning saved from repeal, § 1-6(13); buildings and building regulations, Ch. 7; fences, Ch. 13; flood damage prevention, Ch. 15; signs, Ch. 26; streets, sidewalks and other public places, Ch. 28; subdivision regulations, Ch. 29.

State law reference(s)—Authority to regulate land use, MCL 125.581 et seq.

Sec. 36-3. Scope.

(a) *Applicability.* The standards and regulations of this chapter shall apply to all land, structures, uses, and land development projects established or commenced after the effective date of this chapter. Accordingly, no lots or parcels may be created or altered, nor any land use established, changed, or commenced, nor any structure constructed, altered, or extended, except in compliance with this chapter.

(b) *Minimum requirements.* In interpretation and application, the provisions of this chapter shall be held to be the minimum required for the preservation, protection, and promotion of the public safety, health, convenience, comfort, prosperity, and general welfare.

(c) *Relationship to other ordinances or agreements.*

(1) It is not intended by this chapter to interfere with, abrogate, or annul any ordinance, rules, regulations, or permits previously adopted or issued and not in conflict with any of the provisions of this chapter, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises, and likewise not in conflict with this chapter.

(2) It is not intended by this chapter to interfere with, abrogate, or annul any easements, covenants, or other agreements between parties; provided, however, that where this chapter imposes a greater restriction or requires larger open spaces, or larger lot areas than are imposed or required by such easements, covenants or agreements, the provisions of this chapter shall control.

(3) Whenever any provision of this chapter imposes more stringent requirements, regulations, restrictions, or limitations than are imposed or required by the provisions of any other law or ordinance, the provisions of this chapter shall govern.

(d) *Unlawful structures and uses.* A structure or use not lawfully existing at the time of adoption of this chapter shall not be made lawful solely by adoption of this chapter. Nonconforming structures and uses are subject to the provisions of chapter article XVIII of this chapter.

(e) *No vested right.* Nothing in this chapter shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification, or any permissible activities therein. Such rights as may exist through enforcement of this chapter are hereby declared to be subject to subsequent amendment, change, or modification as my be necessary for the preservation, protection, or promotion of the public health, safety, convenience, comfort, prosperity, and general welfare.

(Ord. No. H-07-01, § 1.103, 7-24-07)

Sec. 36-4. Zoning compliance certificate.

(a) *Purpose.* Many chapters of the City's Code of Ordinances set forth standards for land use, zoning, and property issues even when they otherwise relate to issues that extend beyond strictly zoning issues. Without limitation, examples of such chapters are: chapter 6, animals; chapter 7, buildings and building regulations; chapter 13, fences; chapter 14, fire prevention and protection; chapter 15, flood damage prevention; chapter 23, planning; chapter 26, signs; chapter 28, streets, sidewalks and other public places; chapter 29, subdivision regulations; and chapter 30, swimming pools. Thus, in order to ensure that land use, zoning, and other property standards are met throughout the Code, this section requires any person to obtain a zoning compliance certificate prior to engaging in the repair, construction, alteration, and/or modification of any premises, any structure, or any part of them.

(b) *Duties of owner or occupant.* Prior to permitting the repair, construction, alteration, and/or modification of any premises, any structure, or any part of them, the owner or occupant of the premises and/or structure

shall obtain a zoning compliance certificate, after submittal of a complete application and payment of necessary fees as specified below.

(c) *Duties of contractor for owner or occupant.* A contractor for an owner or occupant of any premises or any structure shall not commence work with respect to the repair, construction, alteration, and/or modification of any premises, any structure, or any part of them unless a zoning compliance certificate has been obtained prior to the work being commenced.

(d) *Duties with respect to fees.*

(1) *Collection.* Fees for inspections and the issuance of zoning compliance certificates or copies thereof required or issued under the provisions of this section shall be collected by the city treasurer in advance of the issuance of such certificates.

(2) *Amount.* The amount of such fees shall be established by the city council, from time to time, by resolution and shall cover the cost of inspection and supervision resulting from the enforcement of this section.

(3) *Exemption.* An owner, an occupant, or a contractor will only have a duty to pay a fee for a zoning compliance certificate to the extent that the type of work to be performed is not already reviewed by virtue of another review and/or permit process that addresses the same zoning, land use, and/or other property issues to be addressed in the process for obtaining a zoning compliance certificate.

(e) *Limitations on duties.* An owner, an occupant, or a contractor will only have a duty to obtain a zoning compliance certificate to the extent that the type of work to be performed could actually relate to any zoning, land use, or other property issue regardless of whether the contemplated work actually does relate to any zoning, land use, or other property issues. By way of illustration, and not by way of limitation, work involving the following things necessarily relates to zoning, land use, and/or other property issues:

(1) Accessory structures less than one hundred (100) square feet in area.

(2) Fences.

(3) Retaining walls.

(4) Water tanks.

(5) Sidewalks.

(6) Driveways.

(f) *Application requirements.* Applications for zoning compliance certificates shall be filed with the building official and shall be accompanied by a written explanation of the proposed improvements. Application materials shall include sufficient detail for the building official to determine whether the proposed improvements conform to the provisions of this chapter. The building official may require that submittal of an application be accompanied by plans and specifications drawn to scale and showing the following:

(1) The location, shape, area, and dimensions of the lot or parcel involved.

(2) The size, shape, dimensions, and location of any existing or proposed structures to be situated on the lot or parcel.

(3) The existing and proposed use of the lot or parcel and all structures upon it.

(4) The location and dimensions of any existing and proposed yard, open space, and parking areas.

(5) Proposed setbacks of structures from lot lines, streets, lakes, and streams.

(6) Any other information deemed necessary by the building official for the proper enforcement of this chapter.

(g) *Permit issuance.* Issuance of zoning compliance certificates under this chapter shall be subject to the following:

(1) The building official shall issue a zoning compliance certificate within ten business days after determination that the proposed improvements conform with all applicable provisions of this chapter.

(2) It shall be unlawful to issue a zoning compliance certificate for proposed work that does not or has not been determined to conform to all applicable provisions of this chapter.

(3) If site plan review or special land use approval is required according to the provisions of article XIV, Procedures and Standards, no zoning compliance certificate shall be issued until the building official has received notification of final approval from the planning commission, including any conditions of approval.

(4) In all cases where the building official shall refuse to issue a zoning compliance certificate, the cause and reasons for such refusal shall be provided in writing to the applicant.

(5) Proof of zoning compliance certificate approval shall be posted upon the premises.

(h) *Revocation.* The building official may revoke a zoning compliance certificate in the case of failure or neglect to comply with any of the provisions of this chapter, or in the case of any false statement or misrepresentation made in the application for the compliance certificate. The building official shall notify the owner of such revocation in writing.

(i) *Duration.* A zoning compliance certificate issued by the building official in accordance with this section shall be valid for a period of three hundred sixty-five (365) calendar days from the date of issuance. If construction is not started within this period, the zoning compliance certificate shall become void. Upon written request, the building official may grant one (1) extension of zoning compliance certificate approval for up to one hundred eighty (180) calendar days.

(j) *Zoning inspections.* It shall be the duty of the holder of every zoning compliance certificate to notify the city of the time when the work subject to the compliance certificate is ready for inspection. It shall be the duty of the building official to inspect work performed under an approved zoning compliance certificate for compliance with the provisions of this chapter.

(Ord. No. H-07-01, § 1.104, 7-24-07)

Sec. 36-5. Building permit.

(a) *Permits required.* It shall be unlawful for any person to commence excavation for or construction of any building or structure, including moving or renovation of an existing building, without first obtaining a building permit from the building official. No permit shall be issued for the construction, alteration, or remodeling of any building or structure until an application has been submitted in accordance with the provisions of this chapter, showing that the construction proposed is in compliance with the provisions of this chapter and with the city's building code. Site plan approval and/or a zoning compliance certificate shall be required for any project before a building permit may be issued.

No plumbing, electrical, drainage, or other permit shall be issued until the building official has determined that the plans and designated use indicate that the structure and premises, if constructed as planned and proposed, will conform to the provisions of this chapter.

"Alteration" or "repair" of an existing building or structure shall include any changes in structural members, stairways, basic construction, type, kind, or class of occupancy, light, or ventilation, means of egress and ingress, or any other changes affecting or regulated by the building code, the city's minimum housing code, or this chapter, except for minor repairs or changes not involving any of the aforesaid provisions.

(b) *Permits for new use of land.* A building permit shall be obtained for any new use of land, whether presently vacant or a change in land use is proposed.

(c) *Permits for new use of buildings or structures.* A change of occupancy permit and/or a building permit shall be obtained for any change in use of an existing building or structure to a different class or type.

(Ord. No. H-07-01, § 1.105, 7-24-07)

Sec. 36-6. Certificate of occupancy.

(a) *Generally.* It shall be unlawful to use or permit the use of any land, building, or structure for which a building permit is required, and to use or permit to be used any building or structure hereafter altered, extended, erected, repaired, or moved, until the building official shall have issued a certificate of occupancy stating that the provisions of this chapter have been complied with, except as specified in subsection (f), below.

(b) *Certificate validity.* The certificate of occupancy as required by the building code for new construction of or renovations to existing buildings and structures shall also constitute the certificate of occupancy as required by this section.

(c) *Certificates for existing buildings.* Certificates of occupancy shall be issued for existing buildings, structures, or parts thereof, or existing uses of land, if after inspection it is found that such buildings, structures, or parts thereof, or such use of land, are in conformity with the provisions of this chapter.

(d) *Temporary certificates.* Temporary certificates of occupancy may be issued for a part of a building or structure prior to the occupation of the entire building or structure, provided that such temporary certificate of occupancy shall not remain in force more than six (6) months, nor more than five (5) days after the building or structure is fully completed and ready for occupancy and, provided further, that such portions of the building or structure are in conformity with the provisions of this chapter.

(e) *Records of certificates.* A record of all certificates of occupancy shall be kept in the office of the building official.

(f) *Certificates for attached accessory buildings.* Buildings or structures accessory and attached to a principal dwelling, building, or structure shall not require a separate certificate of occupancy, but rather may be included in the certificate of occupancy for the principal dwelling, building, or structure on the same lot.

(g) *Application for certificates.* A certificate of occupancy shall be applied for coincident with the application for a building permit and shall be issued within ten (10) days after the erection or alteration of such building shall have been completed in conformity with the provisions and requirements of this chapter. If such certificate is refused for cause, the applicant shall be notified of such refusal and the cause thereof within ten (10) days of the refusal.

(h) *Certificates for nonconforming buildings and uses.* See article XVIII, Nonconformities.

(Ord. No. H-07-01, § 1.106, 7-24-07)

Sec. 36-7. Fees and performance guarantees.

The city council shall, by resolution, establish a schedule of fees for all certificate and permit applications required by this chapter. These fees shall be used for the purpose of defraying the cost of administering this chapter. No action shall be taken on any application or appeal until the application is accurate and complete, and all applicable fees, charges, and expenses have been paid in full. The schedule of fees shall be posted on public display in the city offices, and may be changed only by the city council.

(1) Fees in escrow for professional reviews. An escrow fee may be required by the building official with any application for approval under this chapter, where professional input and review is desired before a final decision is made. The escrow shall be used to pay professional review expenses of engineers, community planners, and any other professionals whose expertise the city values to review the proposed application.

a. The amount of the escrow fee shall be established based on an estimate of the cost of the services to be rendered by the professionals. Any unused fee collected in escrow shall be returned to the applicant within ninety (90) days of final city action on the applicant's request, or within ninety (90) days of withdraw of the request by the applicant. If actual professional review costs exceed the amount of an escrow, the applicant shall pay the balance due prior to receipt of any certificate, permit, or other approval issued by the city.

b. The professional review will result in a written report indicating the extent of conformance or nonconformance with this chapter, and identifying any problems that may create a threat to public health, safety, or the general welfare. Mitigation measures or alterations to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. The applicant will receive a copy of any written reports and statement of expenses for the professional services rendered, upon request.

(2) *Performance guarantees.* To ensure compliance with this chapter and faithful completion of required improvements, the building official may require that the applicant deposit with the city treasurer a financial guarantee to cover the cost of all improvements required as a condition of project approval. Such guarantees shall be deposited prior to the start of work or issuance of any certificates or permits and shall be subject to the following:

a. The amount of the performance guarantee shall be established based on an estimate, prepared by the applicant or designated city consultants, of the cost of completing of all required improvements.

b. "Improvements" shall be limited to those features, upgrades, and enhancements associated with the project considered necessary by the approving authority to protect natural resources, or the health, safety, and welfare of residents of the city and future users of the project including, but not limited to, roadways, lighting, utilities, sidewalks, landscaping and screening, and drainage.

c. The form of the deposit shall be cash, certified check, irrevocable bank letter of credit or other surety acceptable to the city council.

d. Performance guarantees shall continue until such time as the city notifies the surety that the conditions imposed upon the development have been met. The surety shall not release the performance guarantee until the building official is satisfied that the conditions for such action have been met.

e. As work progresses, the city may rebate cash deposits in reasonable proportion to the ratio of work completed on the required improvements. Ten (10) percent of the guarantee shall be retained by the city pending a successful final inspection by the building official of all required improvements.

(Ord. No. H-07-01, § 1.107, 7-24-07)

Sec. 36-8. Violations and penalties.

The standards and requirements of this chapter reflect obligations to the community at large. It shall be the duty of the property owner and all persons having responsibility for the establishment of any use or the

construction, alteration or demolition of any structure or site to verify that such work is not in violation of this chapter. Persons having responsibility for work in violation of this chapter shall be deemed responsible for such violations to the same extent as the property owner.

(1) *Violation.* Failure to comply with any of the provisions of this chapter, or provisions of permits or certificates granted in accordance with this chapter, shall constitute a violation subject to issuance of a municipal civil infraction citation and other measures allowed by law. The imposition of any fine or other penalty by the court shall not exempt the violator from compliance with the provisions of this chapter.

(2) *Correction period.* All violations shall be corrected within thirty (30) days following the receipt of an order to correct from the building official. The building official may grant an extension of up to one hundred eighty (180) days upon determining that the additional time is necessary for correction. The building official may require the immediate correction of a violation upon determining that the violation presents an imminent peril to life or property.

(3) *Penalties.* The violation of any provision of this chapter by any firm, corporation, person or persons, or anyone acting on behalf of said person, persons, firm or corporation is a municipal civil infraction, for which the fine shall be as stated in this subsection (3) of this section, plus costs and other sanctions ordered by the court. If the amount of the fine is expressly and specifically provided in this chapter for a particular violation of this chapter, then the amount of the fine for that violation shall be the amount so provided for that particular violation of this chapter. If the amount of the fine is not expressly and specifically provided in this chapter for a particular violation of this chapter, then the amount of the fine shall be as provided in Code section 1-11 for violations of this chapter. If the amount of the fine is not expressly and specifically provided in this chapter for a particular violation of this chapter, and Code section 1-11 no longer exists, is held to be invalid, or does not otherwise provide the amount of the fine, then the fine shall be not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) for the first offense and not less than five hundred dollars ($500.00) nor more than one thousand dollars ($1,000.00) for subsequent offenses, plus costs and other sanctions ordered by the court.

   a. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this chapter.

   b. For purposes of this section, the term "subsequent offense" shall mean a violation of the provisions of this chapter committed by the same person within three hundred sixty-five (365) calendar days of a previous violation of the same provision for which the person admitted responsibility or was found responsible by the court.

   c. Each day that a violation is permitted to exist shall constitute a separate offense. Offenses committed on subsequent days within a period of seven (7) calendar days following the issuance of a citation for a first offense shall all be considered separate first offenses.

(4) *Public nuisance.* Any structure which is erected, altered, or converted, or any use of any structure or lot which is established or altered in violation of any of the provisions of this chapter is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

(Ord. No. H-07-01, § 1.108, 7-24-07; Ord. No. H-14-04, § I, 5-13-14)

Secs. 36-9—36-20. Reserved.

DIVISION 2. ADMINISTRATIVE ORGANIZATION

Sec. 36-21. Overview.

(a) *Duties of enforcement.* The city council or its duly authorized representative, as specified in this article, is hereby charged with the duty of enforcing the provisions of this chapter. Accordingly, the administration of this chapter is hereby vested in the following city entities:

(1) City council (section 36-22).

(2) City planning commission (section 36-23).

(3) Zoning board of appeals (section 36-24).

(4) Zoning enforcement officials, including the building official and city planning consultant (section 36-25).

(b) *Purpose of division.* The purpose of this division of the zoning ordinance is to set forth the responsibilities and scope of authority of these entities.

(Ord. No. H-07-01, § 1.201, 7-24-07)

Sec. 36-22. City council.

The city council shall have the following responsibilities and authority pursuant to this chapter.

(1) *Adoption of zoning ordinance.* In accordance with the intent and purposes expressed in the preamble to [the ordinance from which this chapter is derived], and pursuant to the authority conferred by Michigan Public Act 110, of 2006, as amended, the city council shall have the authority to adopt this chapter, as well as amendments previously considered by the planning commission or at a hearing or as decreed by a court of competent jurisdiction.

(2) *Review and approval of planned development and conditional rezoning proposals.* City council review and approval shall be required for all amendments to this chapter, all planned developments and conditional rezoning proposals, in accordance with article XIV, Procedures and Standards, article XVI, Planned Development, and article XVII, Conditional Rezoning.

(3) *Setting of fees.* In accordance with section 36-7 of this chapter and section 406 of Michigan Public Act 110 of 2006, as amended, the city council shall have the authority to set all fees for permits, applications, and requests for action pursuant to the regulations set forth in this chapter. In the absence of specific action taken by the city council to set a fee for a specific permit or application, the appropriate city administrative official shall assess the fee based on the estimated costs of processing and reviewing the permit or application.

(4) *Approval of planning commission members.* In accordance with Michigan Public Act 285 of 1931, as amended, members of the planning commission shall be appointed by the mayor, subject to the approval of the city council.

(Ord. No. H-07-01, § 1.202, 7-24-07)

Sec. 36-23. Planning commission.

(a) *Authority.* The planning commission, established by chapter 23 of the City's Code of Ordinances, shall have such powers, duties, and responsibilities as are expressly provided for in this chapter, the Municipal Planning Act (P.A. 285 of 1931, as amended), and the Michigan Zoning Enabling Act (P.A. 110 of 2006, as amended).

(b) *Rules of procedure.* The planning commission shall conduct business, organize meetings, and perform its duties as provided for in this chapter, the Municipal Planning Act (P.A. 285 of 1931, as amended), the

Michigan Zoning Enabling Act (P.A. 110 of 2006, as amended), the Open Meetings Act (P.A. 267 of 1976), and any adopted planning commission bylaws and rules of procedure.

(c) *Duties of planning commission.*

(1) *Zoning ordinance.* The planning commission is hereby designated as the commission specified in section 301 of the Michigan Zoning Enabling Act (P.A. 110 of 2006, as amended) and shall perform the duties of said commission as provided in the statute in connection with the amendment of this chapter. Such duties shall include, but are not limited to, the following:

a. Formulation of the zoning ordinance;

b. Formulation, review, and recommendation of amendments to the zoning ordinance;

c. Holding hearings on a proposed zoning ordinance or amendments; and

d. Reporting its findings and recommendations concerning the zoning ordinance or amendments to city council.

e. *Annual report.* At least once per year, the planning commission shall prepare for city council a report on the administration and enforcement of the zoning ordinance and recommendations for amendments or supplements to the [zoning] ordinance.

(2) *Site plan approval.* The planning commission shall be responsible for reviewing site plans and making determinations to approve, approve subject to conditions, or deny applications for site plan approval in accordance with article XIV, division 2, Site plan review.

(3) *Special use approval.* The planning commission shall be responsible for holding hearings, reviewing, and making determinations to approve, approve subject to conditions, or deny applications for special uses in accordance with article XIV, division 3, Special approval uses.

(4) *Conditional rezoning review.* The planning commission shall be responsible for holding hearings, reviewing requests, and for making a recommendation to council to grant approval, approval subject to conditions, or denial of a request for conditional rezoning, in accordance with article XVII, Conditional Rezoning.

(5) *Planned development review.* The planning commission shall be responsible for holding hearings, reviewing all applications for planned development projects, and for making a recommendation to city council to grant approval, approval subject to conditions, or denial of a proposed planned development, in accordance with article XVI, Planned Developments.

(6) *Master plan.* The planning commission is hereby designated as the commission specified in section 2 of the Municipal Planning Act (P.A. 285 of 1931, as amended) and shall perform the planning duties of said commission as provided in the statute and in chapter 23 of the City's Code of Ordinances.

(7) *Other duties and responsibilities.* The planning commission shall be responsible for review of plats and any other matters relating to land development referred to the commission by city council. The planning commission shall recommend appropriate regulations and action on such matters.

(8) *Meetings.* Meetings of the planning commission shall be held in accordance with an adopted schedule, at the call of the chairman, or building official, or at such other times as the planning commission may specify in its rules and procedures. All hearings conducted by the planning commission shall be open to the public. The commission shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall also keep records of its hearings and other official action, which shall be filed in the office of the city clerk.

(Ord. No. H-07-01, § 1.203, 7-24-07)

Sec. 36-24. Zoning board of appeals.

(a) *Creation and membership.*

(1) *Establishment.* There is hereby established a zoning board of appeals ("board") which shall perform its duties and exercise its powers as provided in Article VI, Sections 601-607 of Act 110 of the Public Acts of 2006 (MCL 125.3610 et seq.), as amended, and in such a way that the objectives of this chapter shall be observed, public safety secured, and substantial justice done.

(2) *Membership.* The board shall consist of at least five (5) members. One (1) member shall be a member of the planning commission, and not less than three (3) shall be the remainder appointed by the mayor, with the approval of city council. One (1) regular member may be a member of city council, but shall not serve as chairperson of the zoning board of appeals.

a. *Alternate members.* City council may appoint not more than two (2) alternate members for the same term as regular members to the board. An alternate member may be called to serve as a member of the board in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which a regular member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the board.

b. *Terms.* Appointments, except for members serving ex officio as planning commission or city council liaisons, shall be for a period of three (3) years. When members are first appointed, the appointments may be for less than three (3) years to provide for staggered terms.

c. *Criteria for membership.* Each member of the board shall be a resident of the City of Dearborn Heights, subject to the provisions in the City Charter. An employee or contractor of the city council may not serve as a member of the board.

(3) *Conflict of interest.* A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance of office.

(4) *Removal and vacancies.* Appointed members may be removed for misfeasance, malfeasance, or nonfeasance by the city council only after consideration of written charges and a public hearing. Any appointive vacancies in the board shall be filled in the same manner as new appointments and shall be filled for the remainder of the term.

(5) *Officers and compensation.* The board shall annually elect its own chairperson, vice chairperson and a secretary. The compensation of the appointed members of the board shall be fixed by city council.

(b) *Meetings.* Meetings of the ZBA shall be held in accordance with an adopted schedule, or at the call of the chairman, or at such other times as the ZBA may specify in its rules and procedures. All hearings conducted by said board shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall also keep records of its hearings and other official action, which shall be filed in the office of the city clerk. A simple majority of the current membership of the board shall constitute a quorum to conduct its business provided that there shall be at minimum of three (3) members to conduct business. The board shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.

(c) *Jurisdiction.* See article XIV, division 5, Variances and appeals.

(Ord. No. H-07-01, § 1.204, 7-24-07)

Sec. 36-25. Zoning enforcement officials, including building official, city planning consultant and other enforcement officials.

(a) *Overview.* As specified throughout this chapter, certain actions necessary for the implementation of this chapter shall be administered by the building official and other city administrative officials, the city planning consultant, or their duly authorized assistants or representatives. In carrying out their designated duties, all such enforcement officers shall administer the chapter precisely as it is written and shall not make changes or vary the terms of the chapter.

(b) *Responsibilities of the building official and assistants. In* addition to specific responsibilities outlined elsewhere in this chapter, and in addition to specific responsibilities related to enforcement and administration of the adopted building code, the building official or his duly authorized assistants shall have the following responsibilities:

(1) Provide citizens and public officials with information relative to this chapter and related matters.

(2) Assist applicants in determining and completing appropriate forms and procedures related to site plan review, rezoning, and other zoning matters.

(3) Review all applications for site plan review, special land use review, planned development, and conditional rezoning and take any action required under the guidelines in article XIV, Procedures and Standards, article XVI, Planned Development, and article XVII, Conditional Rezoning.

(4) Forward to the planning commission all applications for site plan review, special land use review, planned development proposals, conditional rezoning requests, and petitions for amendments to this chapter, and other applications which must be reviewed by the planning commission.

(5) Forward to the zoning board of appeals all materials related to applications for appeals, variances, of other matters on which the zoning board of appeals is required to act.

(6) Forward to the city council all recommendations of the planning commission concerning matters on which the city council is required to take final action.

(7) Report to the planning commission on the status of administrative site plan reviews.

(8) Periodically report to the planning commission on the status of city's zoning and planning administration.

(9) Maintain up-to-date zoning map, zoning ordinance text, and office records by recording all amendments and filing all official minutes and documents in an orderly fashion.

(10) Maintain records as accurately as is feasible of all nonconforming uses, structures, and lots existing on the effective date of this chapter, and update this record as conditions affecting the nonconforming status of such uses changes.

(11) Review and investigate permit applications to determine compliance with the provisions of the zoning ordinance.

(12) Issue building or other appropriate permits when all provisions of this chapter and other applicable ordinances have been complied with.

(13) Issue certificates of occupancy in accordance with article I when all provisions of this chapter and other applicable ordinances have been complied with.

(14) Perform inspections of buildings, structures, and premises to insure proposed land use changes or improvements are and will remain in compliance with this chapter.

(15) Investigate alleged violations of this chapter and enforce appropriate corrective measures when required, including issuance of violation notices, issuance of orders to stop work, and revoking of permits.

(16) Perform other related duties required to administer this chapter.

(c) *Responsibilities of the city planning consultant.* In addition to specific responsibilities outlined elsewhere in this chapter, upon request from the city council or other authorized city body or official, the city planning consultant shall have the following responsibilities:

(1) Prepare and administer such plans and ordinances as are appropriate for the city and its environs, within the scope of the Michigan planning and zoning enabling acts.

(2) Advise and assist the planning commission and be responsible for carrying out the directives of the city council, planning commission, and building official.

(3) Provide citizens and public officials with information relative to this chapter and related matters.

(4) Assist applicants in determining the appropriate forms and procedures related to site plan review, rezoning, and other zoning matters.

(5) Review all applications for site plan review by the planning commission, special land use review, planned development proposals, and conditional rezoning proposals and take any action required under the guidelines in article XIV, Procedures and Standards, article XVI, Planned Development, and article XVII, Conditional Rezoning.

(6) Review all applications for amendments to the zoning ordinance and take any action required under the guidelines of article XIV, Procedures and Standards.

(7) At the request of the planning commission, city council, or building official, draft amendments to the zoning ordinance and other ordinances to accomplish the planning objectives of the city.

(8) Perform other related duties required to administer this chapter.

(9) Periodically report to the planning commission on the status of city's zoning and planning administration.

(10) Perform other related duties required to administer this chapter.

(Ord. No. H-07-01, § 1.205, 7-24-07)

Secs. 36-26—36-35. Reserved.

ARTICLE II. DEFINITIONS

Sec. 36-36. Rules of construction of language.

(a) The following rules of construction apply to the text of this chapter:

(1) The particular shall control the general.

(2) Terms referred to in the masculine gender include the feminine.

(3) Unless otherwise stated, the word days shall mean calendar days; month shall mean any consecutive period of thirty (30) calendar days; and year shall mean any consecutive period of three hundred sixty-five (365) calendar days.

(4) Words used in the present tense shall include the future, unless the context clearly indicates the contrary.

(5) Words used in the singular number shall include the plural; and words used in the plural shall include the singular, unless the context clearly indicates the contrary.

(6) The word shall is always mandatory and not discretionary; the word may is permissive and discretionary.

(7) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, or provisions connected by one of the following conjunctions, the conjunction shall be interpreted as follows:

a. And indicates that all the connected items, conditions, provisions or events shall apply.

b. Or indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

(8) In the case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.

(b) *Inclusive language.*

(1) The terms abutting or adjacent to include land across a zoning or governmental boundary, property line, street, alley, dedicated right-of-way, or access easement.

(2) The term act or action includes omission to act.

(3) The word building includes the word structure. A building or structure includes any part thereof.

(4) The word build includes the words erect and construct.

(5) The word dwelling includes residence.

(6) The words include or including shall mean including but not limited to.

(7) The word lot includes the words plot and parcel.

(8) The word person includes an individual, firm, association, organization, public or private corporation, partnership or co-partnership, limited liability company, incorporated or unincorporated association, trust, or any other entity recognizable as a person under the laws of the State of Michigan.

(9) The phrase such as shall mean such as but not limited to.

(10) The word used includes arranged, designed, intended, or occupied.

(11) The terms zoning ordinance or this chapter refers to the Zoning Ordinance of the City of Dearborn Heights and any amendments thereto.

(Ord. No. H-07-01, § 2.01, 7-24-07)

Sec. 36-37. Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Terms not herein defined shall have the meanings customarily assigned to them.

Accessory building. See Building.

Accessory dwelling unit means a separate, complete housekeeping unit, but not a mobile home, with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is located on the same lot as and clearly accessory to a principal use. The accessory dwelling unit may either be within the principal building on the site or in a detached building.

Accessory use. See Use.

Adult regulated uses. The following definitions shall apply to adult regulated uses:

(1) *Adult bookstore or supply store* means an establishment having ten (10) percent or more of all usable interior, retail, wholesale, or warehouse space devoted to the distribution, display, or storage of books, magazines, and other periodicals and/or photographs, drawings, slides, films, video tapes, recording tapes, and/or novelty items which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein), or an establishment with a segment or section devoted to the sale or display of such material in an establishment is customarily not open to the public generally, but only to one (1) or more classes of the public, excluding any minor by reason of age.

(2) *Adult mini motion picture theater* means an enclosed building with a capacity for less than fifty (50) persons used commercially for regularly presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified anatomical areas or specified sexual activities, (as defined herein), for observation by patrons therein. Such establishment is customarily not open to the public generally, but only to one (1) or more classes of the public, excluding any minor by reason of age.

(3) *Adult motion picture theater* means an enclosed building with a capacity of fifty (50) or more persons used commercially for regularly presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified anatomical areas or specified sexual activities, (as defined herein), for observation by patrons therein. Such establishment is customarily not open to the public generally, but only to one (1) or more classes of the public, excluding any minor by reason of age.

(4) *Adult amusement gallery, adult arcade or adult motion picture arcade* means any business that provides on its premises coin-operated, slug-operated, or electronically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices that are maintained to show images and where the images so displayed are distinguished or characterized by the depiction or description of specified anatomical areas or specified sexual activities (as defined herein).

(5) *Adult group "A" cabaret* means an establishment which features any of the following:

a. Topless dancers and/or bottomless dancers;

b. Go-go dancers;

c. Exotic dancers;

d. Strippers;

e. Male and/or female impersonators or similar entertainers; or

f. Topless and/or bottomless waitstaff or employees.

(6) *Adult model studio* means any place where models who display "specified anatomical areas" (as defined herein) are present to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons who pay some form of consideration or gratuity. This definition shall not apply to any bonafide art school or similar educational institution.

(7) *Adult motel* means a motel wherein visual displays, graphic materials, or activities are presented which depict, describe, or relate to "specified sexual activities" or "specified anatomical areas" (as defined herein).

(8) *Adult outdoor motion picture theater* means a drive-in theater used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein) for observation by patrons of the theater. Such establishment is customarily not open to the public generally, but only to one (1) or more classes of the public, excluding any minor by reason of age.

(9) *Massage parlor or massage establishment* means a place where manipulated massage or manipulated exercises are practiced for pay upon the human body by anyone using mechanical, therapeutic, or bathing devices or techniques, other than the following: a duly licensed physician, osteopath, or chiropractor; a registered or practical nurse operating under a physician(s directions; or, registered physical or occupational therapists or speech pathologists who treat patients referred by a licensed physician and operate only under such physician(s direction. A massage establishment may include, but is not limited to, establishments commonly known as massage parlors, health spas, sauna baths, Turkish bathhouses, and steam baths. Massage establishments, as defined herein, shall not include properly-licensed hospitals, medical clinics, or nursing homes, or beauty salons or barber shops in which massages are administered only to the scalp, the face, the neck or the shoulders.

(10) *Specified anatomical areas* means:

a. Less than completely and opaquely covered:

i. Human genitals or pubic region;

ii. Buttocks;

iii. Female breast below a point immediately above the top of the areola; and

b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(11) *Specified sexual activities* means:

a. Human genitals in a state of sexual stimulation or arousal;

b. Acts of human masturbation, sexual intercourse, or sodomy;

c. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

Alley means any dedicated public way providing a secondary means of access to abutting property but not intended for general traffic circulation or for parking.

Alteration means any change, addition, or modification to a structure or type of occupancy; any change in the structural members of a building, such as walls, partitions, columns, beams, or girders; or any change which may be referred to herein as altered or reconstructed.

Amusement arcade means any establishment where four (4) or more amusement devices are made available to the public. Any property used solely for a residential purpose or a private club, at which amusement devices are not available for use by the general public, shall be exempt from this definition.

Amusement device means any machine which, upon the insertion of a coin, slug, token, plate, or disk, or upon payment of a price, may be operated by the public generally for use as a game, entertainment, or amusement, including but not limited to games registering a score; electronic video games; mechanical or electronic devices, such as marble machines, pinball machines, mechanical grab machines, shuffle board game machines, pool tables, and billiard tables; and all game operations or transactions similar thereto, whether operated by hand, electric power, or a combination thereof. This term shall not include:

(1) Any adult-oriented use;

(2) Any gambling device;

(3) A juke box or other similar device which plays only music for money;

(4) A mechanical ride intended for children (e.g., horses, rocket ships);

(5) Bingo games;

(6) A full-size bowling lane or alley;

(7) A movie theater seating more than ten (10) persons; or

(8) A vending machine dispensing food, drink, tobacco, toys, or written material, which material can be utilized away from the premises where the machine is located and does not require further participation by the person inserting the item or paying the price at the location of the machine.

Animal means any nonhuman members of the animal kingdom. See also chapter 6, Animals.

(1) Domestic animal means any non-wild animal customarily kept by humans for companionship, including dogs, cats, birds, rabbits, rodents, turtles, fish, nonpoisonous snakes or lizards, and the like.

(2) Domestic fowl means domesticated birds commonly used for eggs or meat. Domestic fowl include, but are not limited to, chickens, ducks, geese, and turkeys.

(3) Wild animal means any animal which is wild by nature and not customarily domesticated.

Animal hospital. See Clinic, veterinary.

Antenna means any exterior transmitting or receiving device mounted on a tower, building, or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals, or other communication signals. Antenna includes satellite dish antenna, amateur ("ham") radio antenna, exterior television aerials, and similar devices. Not included in this definition and not subject to regulation under this chapter are governmental facilities subject to state or federal law or regulations which preempt municipal regulatory authority.

Apartment. See Dwelling, multiple-family.

Apartment building or apartment house means a residential structure containing three or more apartments.

Attached wireless communications facilities means facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles, and the like. A wireless communication support structure proposed to be newly established is not included in this definition.

Automobile means any noncommercial motorized vehicle used primarily for the transportation of passengers, including cars, light trucks, vans, motorcycles, and the like, unless specifically indicated otherwise.

Automobile-oriented use means any place of business that primarily provides automobile-related services and/or that provides goods or services to customers while in an automobile. Such uses include those listed below.

(1) Automobile detailing shop means a commercial establishment that provides services such as application of paint protectors, interior and exterior cleaning and polishing, and installation of after-market accessories including tinting, spoilers, sunroofs/moonroofs, headlight covers, car alarms, CB radios, stereo equipment, or cellular telephones. Automobile detailing does not include car wash, engine degreasing, or similar automobile cleaning services.

(2) Automotive repair garage/shop/station means a commercial establishment that provides major or minor repair services for automobiles, trailers, recreational vehicles, motorcycles, or similar noncommercial motor vehicles, but excludes dismantling, wrecking, or salvage.

a. Major repair service includes general repair, rebuilding, or reconditioning of engines, transmissions, motor vehicles, or trailers; collision service such as body, frame or fender straightening or repair; steam cleaning, undercoating and rust proofing; major painting services; or similar servicing, rebuilding, or repairs that normally do require significant disassembly and/or overnight on-site storage of vehicles.

b. Minor repair service includes the replacement of any part or repair of any part that does not require removal of the engine head or pan, transmission, or differential; engine tune-ups and servicing of brakes, air conditioning, exhaust systems; oil change or lubrication; wheel alignment and/or balancing; sales and installation of batteries and/or tires; incidental body and fender work; minor painting and upholstering service; or similar servicing or repairs not as part of collision repair that normally do not require any significant disassembly or overnight on-site storage of vehicles.

(3) Car wash means a facility for the washing and/or waxing of automobiles but not heavy trucks or commercial fleets.

a. Automatic car wash means a building or portion thereof containing automatic or mechanical devices for washing automobiles.

b. Self-service car wash means a facility where washing, drying, polishing, and/or vacuuming of an automobile is done by the driver or an occupant of the automobile.

(4) Drive-in business means a commercial establishment whose method of operation involves the delivery of goods or services for consumption within a motor vehicle parked on the premises. Drive-in business does not include automotive repair garages or service stations, as defined herein.

(5) Drive-through business means a commercial establishment whose method of operation involves the delivery of goods or services, typically through a drive-through window, to customers in a motor vehicle for consumption off the premises.

(6) Drive-through window means a building opening, including windows, doors, or mechanical devices, through which goods or services are delivered to customers while in a motor vehicle that is not parked.

(7) Gas station or filling station means an establishment where motor fuels (including gasoline, diesel fuel, and alternative fuels) and lubricants are sold and/or dispensed as the principal use on the site. Household propane and kerosene sales may be permitted pursuant to this chapter. The sale of convenience items may be accessory to the principal use, provided that payment for such items is made outside any structure on the site.

(8) Gas station with convenience store means any commercial establishment that sells both motor fuels and convenience items for which payment may be made inside a structure on the site. Convenience items may include hot or cold beverages, prepackaged food items, and/or self-service food items, but not food prepared on the premises by a person other than the consumer.

(9) Gas station with carry-out or fast-food restaurant means any commercial establishment that sells both motor fuels and food prepared on the premises by a person other than the consumer. Convenience items may or may not be available for sale. Seating areas for restaurant patrons may or may not be provided, but no table service shall be provided.

(10) Gas station with standard restaurant. See Truck stop.

(11) Service station means any commercial establishment where motor fuels and lubricants are sold and/or dispensed as the principal use on the site, but which also offers minor repair service (see Automotive repair garage) and/or retail sales of tires, batteries, and other small accessories or parts for motor vehicles.

Automobile-oriented uses shall not include new or used automobile dealerships, retail establishments providing goods but no repair service (e.g., auto parts stores), mass transportation facilities (e.g., bus terminals), parking spaces or parking lots, automobile rental establishments, automobile liveries, truck repair garages, truck stops, or any public or governmental use.

Automobile dealership means any business establishment that sells or leases new or used automobiles, trucks, vans, trailers, recreational vehicles, boats, motorcycles, or similar motorized transportation vehicles. An automobile dealership may maintain an inventory of the vehicles for sale or lease either on-site or at a nearby location and may provide on-site facilities for the repair and service of vehicles sold or leased by the dealership, provided all such minor repair or service activities occur within an enclosed building.

Automobile livery means any business establishment that offers transportation in passenger vehicles in exchange for remuneration. Accessory uses, including outdoor storage of vehicles, on-site minor automotive repair, and/or on-site automotive wash facilities, shall be regulated pursuant to the provisions of this chapter.

Bar. See Restaurant, bar or lounge.

Basement. See Story.

Bed-and-breakfast means a private residence in which overnight accommodations are provided or offered for transient guests for compensation, including provisions for a morning meal for overnight guests only.

Bedroom means a room designed or used in whole or in part for sleeping purposes.

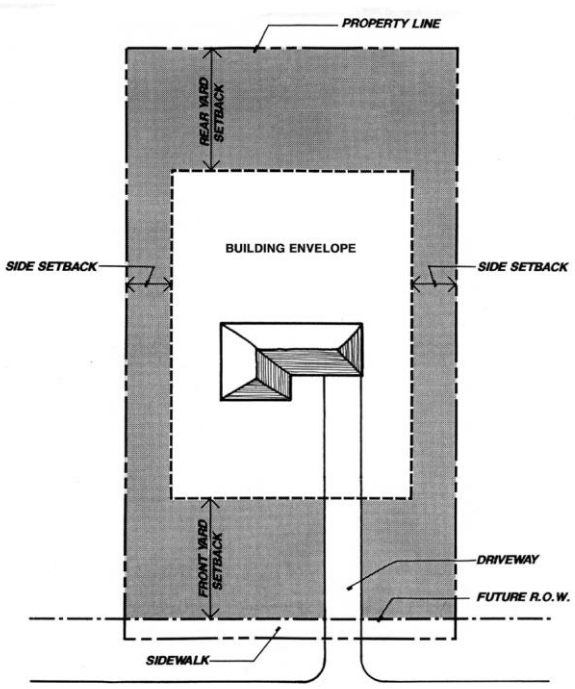
Berm. See Landscaping.

Block means the property bounded by a street, streets, or combination of streets and public lands, rights-of-way, rivers or streams, boundary lines of the city, or any other barrier to the continuity of development.

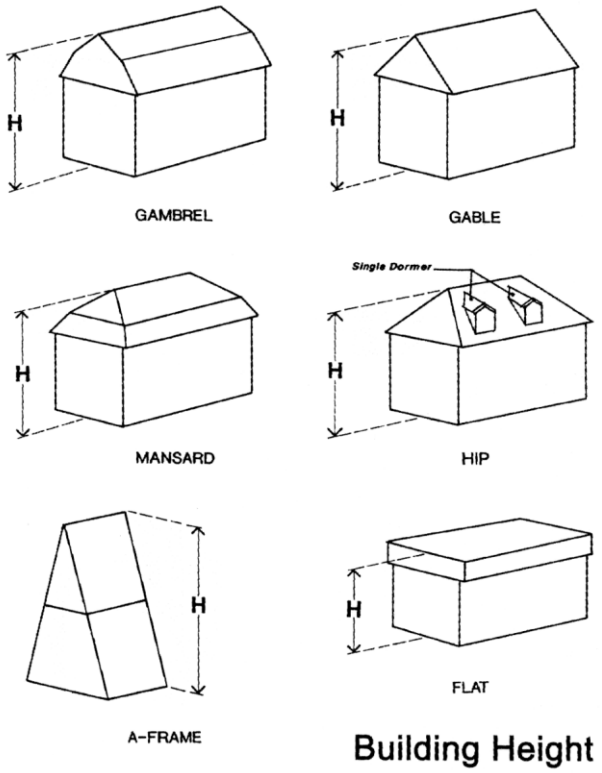
Boarding house means a building (other than a hotel, motel, nursing home, or private residence) where for compensation and by prearrangement for definite periods of time, lodging and meals are provided for five (5) or more persons.

Board of appeals or board means the zoning board of appeals of the city, created pursuant to the provisions of Michigan Public Act 110 of 2006, as amended.

Building means any structure, either temporary or permanent, having a roof and intended for the shelter or enclosure of any person, animal, personal property, or materials of any kind. A building shall include a tent, awning, semi-trailer, or vehicle situated on a parcel and used for the purposes of a building. A building shall not include structures such as signs, fences, or smokestacks, but shall include structures such as storage tanks, grain elevators, coal bunkers, oil cracking towers, or similar structures.



Building Envelope



Building Height

(1) Accessory building means a subordinate building or structure on the same lot, or part of the main building, occupied by or devoted exclusively to an accessory use. Accessory buildings may be attached to or detached from the principal building on the lot.

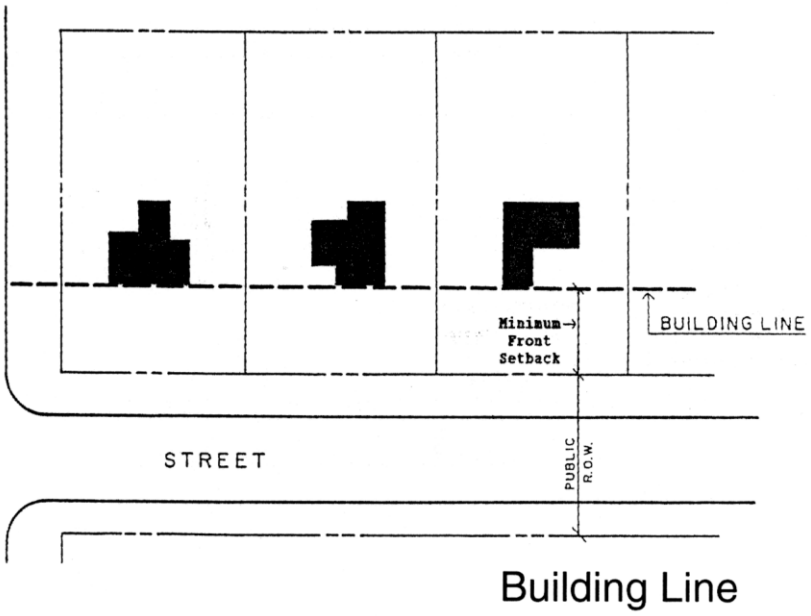
(2) Principal building means a building or, where the context so indicates, a group of buildings which are permanently affixed to the land and which are built, used, designed, or intended for the shelter or enclosure of the principal use of the parcel.

(3) Temporary building means a building which is not permanently affixed to the land and is permitted to exist for a specific reason for a specific period of time (See section 36-254, Temporary structures and uses).

Building envelope or buildable area means the portion of a lot or site, exclusive of the required setbacks and/or open spaces required by this chapter, upon which a building or structure may be constructed.

Building height means the vertical distance measured from the established grade to the highest point of the roof surface of a flat, gambrel, gable, mansard, hip, or A-frame roof. Where a building is located on sloping terrain, the height shall be measured from the average ground level of the building wall.

Building line means a line parallel to the front lot line at the minimum required front setback line (see illustration).



Building official means the officer or other authority designated by the city council to administer and enforce the Building Code and to supervise and coordinate the functions of the building department.

Building permit means an official document or certification that is issued by the building official and which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving, or repair of a building or structure.

Building, separate, means any portion of any structure completely separated from every other portion by masonry or a firewall without any window, which wall extends from the ground to the roof.

Bulk means the term used to indicate the size and setbacks of buildings and structures and the location of same with respect to one another, including standards for the heights and area of buildings; the location of exterior walls in relation to lot lines, streets, and other buildings; gross floor area of buildings in relation to lot area; open space; and, the amount of lot area required for each dwelling unit.

Bulk fuel sales means the sale and/or transfer of bulk quantities of motor fuels, compressed gases, liquefied petroleum gas, kerosene, propane, or other flammable and/or combustible liquids for business use, retail resale, wholesale, or distribution.

Caretaker living quarters means an independent residential dwelling unit designed for and occupied by no more than two (2) persons, where at least one (1) is employed to look after goods, buildings, or property on the parcel on which the living quarters are located.

Cemetery means land used for the burial of the dead, including columbariums, crematories, and mausoleums.

Certificate of occupancy means a document, signed by the building official as a condition precedent to the commencement of a use after the construction/reconstruction of a structure or building, which acknowledges that such structure or building complies with the provisions of this chapter.

Child care center or day care center means a facility, other than a private home, receiving one or more preschool or school-age children for care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. Child care center or day care center includes a facility that provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. This definition includes facilities generally described as a day nursery, nursery school, parent cooperative preschool, play group, before- or after-school program, or drop-in center. Child care centers are subject to all applicable provisions, definitions, and regulations of Michigan Public Act 116 of 1973, as amended (MCL 722.111 et seq.).

Church or synagogue means any structure wherein persons regularly assemble for religious activity.

City means the City of Dearborn Heights, Michigan.

Clinic, medical, means an establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists, or similar professionals. A medical clinic may incorporate customary laboratories and pharmacies incidental to or necessary for its operation or to the service of its patients, but may not include facilities for overnight patient care or major surgery.

Clinic, veterinary, means an institution which is licensed by the Michigan Department of Health to provide for the care, diagnosis, and treatment of sick or injured animals, including those in need of medical or surgical attention. A veterinary clinic may include customary pens or cages for the overnight boarding of animals and such related facilities as laboratories, testing services, and offices.

Club or fraternal organization means an organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics, or the like, but not operated for profit. The facilities owned or used by such organization may be referred to as a club in this chapter.

Colocation means the location by two (2) or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, with the intent to reduce the total number of structures required to support wireless communication antennas in the city.

Commercial use means the use of property for retail sales or similar businesses where goods or services are sold or provided directly to the consumer. As used in this chapter "commercial use" shall not include industrial, manufacturing, or wholesale businesses.

Commission means the planning commission of the City of Dearborn Heights.

Condominium means a system of separate ownership of individual units in multi-unit projects. In addition to the interest acquired in a particular unit, each unit owner is also a tenant in common in the underlying fee and in the spaces and building parts used in common by all the unit owners. For the purposes of this chapter, condominium terms shall be defined as follows:

(1) *Condominium act:* Shall mean Public Act 59 of 1978, as amended.

(2) *Condominium lot:* That portion of a site condominium project designed and intended to function similar to a platted subdivision lot for purposes of determining minimum yard setback requirements and other requirements set forth in Article 5, Schedule of Regulations.

(3) *Condominium unit:* That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed for the condominium project.

(4) *Common elements:* Portions of the condominium project other than the condominium units.

(5) *General common element:* Common elements other than the limited common elements, intended for the common use of all co-owners.

(6) *Limited common elements:* Portions of the common elements reserved in the master deed for the exclusive use of less than all co-owners.

(7) *Master deed:* The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan.

(8) *Site condominium project:* A condominium project designed to function in a similar manner, or as an alternative to a platted subdivision. A residential site condominium project shall be considered as equivalent to a platted subdivision for purposes of regulation in this chapter.

Congregate housing. See senior citizen housing or state licensed residential facility.

Conservation easement means a legal agreement in which the landowner retains ownership of private property, but conveys certain specifically identified rights to a land conservation organization or a public body.

Construction means the physical activity involved in constructing buildings, structures and permanent improvements upon the land, including but not limited to earth-moving, grading, maneuvering equipment and machines, clearing, paving and the like.

Contractor's yard means a site on which a building or construction contractor stores equipment, tools, vehicles, building materials, and other appurtenances used in or associated with building or construction. A contractor(s yard may include outdoor or indoor storage, or a combination of both.

Convalescent home. See Nursing home.

Convenience store means a single-story retail store designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items. Convenience stores are designed to attract a large volume of stop-and-go traffic.

Co-op (or cooperative) housing means a multiple dwelling owned by a corporation which leases its units to stockholders on a proprietary lease arrangement.

Curb cut means the entrance to or exit from a property provided for vehicular traffic to or from a public or private thoroughfare.

Day spa or day salon means a nurturing, safe, clean commercial establishment, which employs professional, licensed therapists whose services include massage and body or facial treatments. Private treatment rooms are provided for each client receiving a personal service. Massage treatments may include body packs and wraps,

exfoliation, cellulite and heat treatments, electrolysis, body toning, waxing, aromatherapy, cleansing facials, medical facials, non-surgical face lifts, electrical toning, and electrolysis. Hydrotherapy and steam and sauna facilities, nutrition and weight management, spa cuisine, and exercise facilities and instruction may be provided in addition to the massage and therapeutic treatment services. Full service hair salons, make-up consultation and application, and manicure and pedicure services may be provided as additional services.

Deck means a platform, commonly constructed of wood, which is typically attached to a house, and which is typically used for outdoor leisure activities.

Density means the number of dwelling units developed on an acre of land. As used in this chapter, all densities are stated in dwelling units per net acre; that is, dwelling units per acre of land devoted to residential use, exclusive of land in streets, alleys, easements, steep slopes, regulated wetlands, parks, playgrounds, schoolyards, or other public lands and open spaces.

Detention basin means a manmade or natural water collector facility designed to collect surface water in order to impede its flow and to release the water gradually at a rate not greater than that prior to the development of the property, onto natural or manmade outlets.

Development means the construction of a new building, reconstruction of an existing building, or improvement of a structure on a parcel or lot, the relocation of an existing building to another lot, or the improvement of open land for a new use.

Distribution center means a use which typically involves both warehouse and office/administration functions, where short and/or long term storage takes place in connection with the distribution operations of a wholesale or retail supply business.

District, zoning, means a portion of the city within which, on a uniform basis, certain uses of land and buildings are permitted and within which certain yards, open spaces, lot areas, and other requirements are established.

Drive-in theater means an open-air theater constructed and operated at an established location, without cover or roof, displaying motion pictures for the general public who view the screen or stage while seated in a vehicle. The term "drive-in theater" as used herein shall include the entire premises upon which such theater is constructed and operated, including parking areas and all other facilities accessory to such business.

Dumpster means any container of more than one (1) cubic yard capacity used for the depositing and/or temporary storage of rubbish ordinarily with the collection, transportation, and disposal of such rubbish by motor vehicle.

Duplex. See Dwelling, two-family or duplex.

Dwelling means any building, or part thereof, containing sleeping, kitchen, and bathroom facilities designed for and occupied by one (1) family. In no case shall a travel trailer, motor home, automobile, tent or other portable building not defined as a recreational vehicle be considered a dwelling. In the case of mixed occupancy where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purposes of this chapter.

Dwelling, accessory. See Accessory dwelling unit.

Dwelling, manufactured, means a building or portion of a building designed for long-term residential use and characterized by all of the following:

(1) The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended; and

(2) The structure is designed to be transported to the site in a nearly complete form, where it is placed on a foundation and connected to utilities; and

(3) The structure is designed to be used as either an independent building or as a module to be combined with other elements to form a complete building on the site.

Dwelling, mobile home, means a manufactured dwelling, transportable in one (1) or more sections, which is built upon a chassis and designed to be used with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. A mobile home dwelling shall not include modular homes, motor homes, or travel trailers.

Dwelling, multiple-family, means a building designed for and occupied by three (3) or more families living independently, with separate housekeeping, cooking, and bathroom facilities for each family. This definition includes three-family houses, four-family houses, and apartment houses, but does not include motels, hotels, trailer camps, or mobile home parks.

(1) Apartment means an attached dwelling with party walls, contained in a building with other apartment units which are commonly reached from a common stair landing or walkway. Apartments are typically rented by the occupants. Apartment buildings often may have a central heating system and other central utility connections. Apartments typically do not have their own yard space. Apartments may also be known as garden apartments or flats.

(2) Efficiency unit means a type of apartment consisting of one principal room, exclusive of bathroom, kitchen, hallway, closets, or dining alcove directly off the principal room, providing not less than three hundred fifty (350) square feet of floor area.

Dwelling, one-family or single-family, means an independent, detached residential dwelling designed for and used or held ready for use by one family only. Single-family dwellings are commonly the only principal use on a parcel or lot.

Dwelling, two-family or duplex, means a detached building, designed exclusively for and occupied by two (2) families living independently of each other, with separate housekeeping, cooking, and bathroom facilities for each. Also know as a duplex dwelling.

Dwelling unit means one (1) or more rooms, along with bathroom and kitchen facilities, designed as a self-contained unit for occupancy by one (1) family for living, cooking, and sleeping purposes.

Dwelling unit, townhouse, means an attached dwelling unit with party walls, designed as part of a series of three (3) or more dwellings, with its own front door which opens to the outdoors at ground level, its own basement, and typically, with its own utility connections and front and rear yards. Townhouses are sometimes known as row houses.

Earth-sheltered home means a complete building partially below grade that is designed to conserve energy and is intended to be used as a single-family dwelling.

Easement means a right-of-way granted, but not dedicated, for limited use of private land for a public or quasi-public purpose and within which the owner of the property shall not erect any permanent structures.

Engineer, city means the person or firm designated by the city council to advise the city administration, city council, and planning commission on drainage, grading, paving, storm water management and control, utilities, and other related site engineering and civil engineering issues. The city engineer may be a consultant or an employee of the city.

Enforcement official means the person or persons designated by the city as being responsible for enforcing and administering requirements of this zoning ordinance. Throughout this chapter the enforcement official may be referred to as the building official, planning official, public safety official, engineering official, or their agents. Such titles do not necessarily refer to a specific individual, but generally the office or department most commonly associated with the administration of the regulation being referenced.

Erected means built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavation, fill, drainage, and the like shall be considered part of erection.

Essential services means the erection, construction, alteration, or maintenance by public utilities, municipal departments or commissions, of underground, surface or overhead gas, communication, electrical, steam, fuel or water transmission or distribution systems, collections, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith, but not including buildings which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience, or welfare.

Excavation means the removal or movement of soil, sand stone, gravel, or fill dirt except for common household gardening, farming, and general ground care.

Exception means an exclusion from the normal zoning ordinance rules and regulations for the purposes of permitting particular uses or structures which are considered essential or appropriate in certain locations or under certain conditions. A variance is not required for uses or structures which are permitted because of an exception.

Family means one (1) or more persons living together and related by the bonds of consanguinity, marriage, or adoption, together with servants of the principal occupants and not more than one (1) additional unrelated person, with all such individuals being domiciled together as a single, domestic, housekeeping unit in a dwelling. Family shall include functional family, as defined herein.

Functional family means a group of people having a relationship which is functionally equivalent to a family. The relationship must be of a permanent and distinct character with a demonstrable and recognizable bond characteristic of a cohesive unit. Functional family does not include any society, club, fraternity, sorority, association, lodge, organization, or other group of individuals where the common living arrangement or basis for establishment of the housekeeping unit is temporary.

Fence means an artificially constructed barrier of wood, masonry, stone, wire, metal, or any other manufactured material or combination of materials, used to prevent or control entrance, confine within, or mark a boundary.

Fill or filling means the depositing or dumping of any matter on or into the ground, except deposits resulting form common household gardening and general ground care.

Floodplain means any land area susceptible to being inundated by floodwaters when high amounts of precipitation are experienced or natural cyclic conditions raise the water levels. Determinants of a floodplain are as follows:

(1) That area which typically is adjacent to a river, stream, or other body of water, and is subject to flooding from a 100-year base flood.

(2) Principal estuary courses of wetland areas that are part of the river flow system.

(3) Contiguous areas paralleling a river, stream, or other body of water that exhibit unstable soil conditions for development.

Floodway means the channel of a river or other watercourse and the adjacent lands that must be reserved in order to discharge floodwaters without cumulatively increasing the water surface elevations more than one (1) foot.

Floor area, gross, means the total area of a building measured by taking the outside dimensions of the building at each floor level, including any basement, elevator shafts and stairwells; floor space used for mechanical equipment; penthouse, half story, and mezzanine or interior balcony.

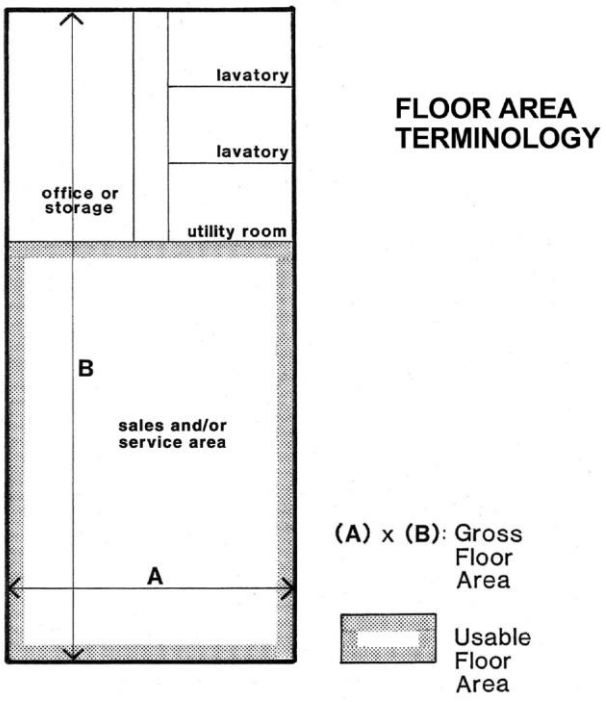
Floor area, gross leasable, means the whole floor area measured to the dominant position of the permanent outer walls, excluding major vertical penetrations of the floor (e.g., elevator shafts, stairwells, flues, stacks, pipe shafts, interior courtyards/atriums, and vertical ducts with their enclosing walls). Structural columns and

projections are included. The gross leasable floor area is fixed for the life of a building and is not affected by changes in corridors.

Floor area, net. See Floor area, usable residential and floor area, usable nonresidential.

Floor area, usable nonresidential, means the sum of the horizontal areas of each floor, measured from the interior faces of the exterior walls, including all areas used for, intended to be used for, and accessible for the sale of merchandise, provision of services, or service to patrons, clients or customers. Floor area which is used for or intended to be used for the storage or processing of merchandise, or for utilities shall be excluded from the computations of usable nonresidential floor area (see illustration).

Floor area, usable residential means the gross floor area minus areas in basements, unfinished attics, attached garages, and enclosed or unenclosed porches.



Foster child means a child unrelated to a family by blood or adoption with whom he or she lives for the purpose of care and/or education.

Fraternal organization. See Club.

Garage, private means an accessory building designed or used for the storage of not more than three (3) automobiles owned and used by the occupants of the building to which it is accessory. Private garages shall not have public repair facilities. A private garage may be either attached to or detached from the principal structure.

Garage, public. See Automobile-oriented use.

Gas station. See Automobile-oriented use.

Golf course or country club means the premises upon which the game of golf is played, including clubhouses, parking lots, swimming pools, tennis courts, or other facilities or uses customarily incidental to a golf course or country club.

Grade means a reference plane representing the average of the finished ground level adjacent to the exterior walls of a building or structure and established for the purpose of regulating the number of stories and/or

height of a building. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground at each face of the building or structure.

(1) Average grade means the arithmetic mean of the lowest and highest grade elevations in an area within five (5) feet of the exterior wall or foundation line of a building or structure.

(2) Finished grade means the lowest point of elevation in an area within five (5) feet of the exterior wall or foundation line of a building or structure.

(3) Native grade means the elevation of the ground surface in its natural state, before construction begins.

Greenbelt. See Landscaping.

Group day care home. See State licensed residential facility.

Hazardous uses means all uses which involve the storage, sale, manufacture, or processing of materials which are dangerous and combustible and are likely to burn immediately, and from which either poisonous fumes or explosions are to be anticipated in the event of fire. These uses include all high hazard uses listed in Section 306 of the Basic Building Code/1987, as amended, edition prepared by the Building Officials Conference of America, Incorporated.

Height of building. See Building height.

Highway. See Street.

Home occupation means any occupation or profession conducted entirely within a dwelling by any inhabitant thereof, where such use is clearly incidental to the principal use of the dwelling as a residence, and where such use:

(1) Does not change the character or appearance of the residence;

(2) Does not result in any signs or displays on the premises except as permitted under article X, Signs, of this chapter;

(3) Does not result in any sales of commodities or goods on the premises; and

(4) Does not require equipment other than what would commonly be found in association with a residential dwelling.

Hookah/Shisha Bars/Cafes. See Restaurants.

Hospital means an institution licensed by the Michigan Department of Health to provide inpatient and outpatient medical and/or surgical services for the sick and/or injured, and which may include as an integral part of the facility such related facilities as laboratories, medical testing services, outpatient departments, training facilities, central service facilities and staff offices.

Hospital, veterinary. See Clinic, veterinary.

Hotel means a building of six (6) rooms or more in which lodging is offered for compensation to transient guests. A hotel is distinguished from a motel by providing access to rental units primarily from interior lobbies, courts, or halls.

Ice cream parlor means a retail establishment whose business is limited to the sale of ice cream, frozen deserts, dessert items, candies and confections, and beverages in a ready-to-eat state. Businesses serving hot dogs, hamburgers, salads, pizza, hot or cold sandwiches, or similar entree items are not considered ice cream parlors for the purposes of this chapter.

Impervious surface means any material that prevents, impedes, or slows infiltration or absorption of stormwater directly into the ground at the rate of absorption of vegetation-bearing soils. Impervious surfaces include buildings, asphalt, concrete, gravel, and other similar surfaces.

Indoor recreation center means an establishment which provides indoor exercise facilities and indoor court sports facilities, and which may include spectator seating in conjunction with the sports facilities. For the purposes of this chapter, a bowling establishment shall be considered a type of indoor recreation center.

Industry, heavy, means a use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

Industry, light, means a use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

Ingress and egress means a driveway which allows vehicles to enter or leave a parcel of property, or to a sidewalk which allows pedestrians to enter or leave a parcel of property, a building or another location.

Junk means any motor vehicle, machinery, appliance, product or merchandise with parts missing or scrap metals or other scrap materials that are damaged, deteriorated, or are in a condition which prevents their use for the purpose for which the product was manufactured. This definition specifically includes motor vehicles not movable under their own power.

Junkyard or salvage yard means and includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof, but does not include uses established entirely within enclosed buildings.

Kennel means the boarding, breeding, raising, grooming, or training of one (1) or more domestic animals of any age, which animals are not owned by the owner or occupant of the premises and/or which are kept for commercial gain. See also chapter 6, Animals.

Kennel, private, means the keeping, breeding, raising, showing, or training of four (4) or more domestic animals over four (4) months of age for the personal enjoyment of the owner or occupants of the premises, and for which commercial gain is not the primary objective. See also chapter 6, Animals.

Laboratory means a place devoted to experimental study, such as testing and analyzing. Manufacturing of a product or products is not permitted within this definition.

Lake means any body of water, natural or artificial, defined as (inland lake or stream (in the Inland Lake and Stream Act of 1972, P.A. 1972, No. 346, as amended.

Landfill means a tract of land that is used to collect and dispose of (solid waste (as defined and regulated in Michigan Public Act 641 of 1979, as amended.

Landscaping means the treatment of the ground surface with live plant materials such as, but not limited to, grass, ground cover, trees, shrubs, vines, and other live plant material. In addition, a landscape design may include other decorative man-made materials, such as wood chips, crushed stone, boulders, or mulch. Structural features such as fountains, pools, statues, and benches shall also be considered a part of landscaping, but only if provided in combination with live plant material. Artificial plant materials shall not be counted toward meeting the requirements for landscaping. Various landscaping-related terms are defined as follows:

(1) Berm means a continuous, raised earthen mound with flattened top and sloped sides, capable of supporting live landscaping materials, and with a height and width that complies with the requirements of this chapter.

(2) Grass means any of a family of plants with narrow leaves normally grown as permanent lawns in Wayne County, Michigan.

(3) Greenbelt means a strip of land of definite width and location reserved for the planting of a combination of shrubs, trees, and ground cover to serve as an obscuring screen or buffer for noise or visual enhancement, in accordance with the requirements of this chapter.

(4) Ground cover means low-growing plants that form a dense, extensive growth after one (1) complete growing season, and tend to prevent weeks and soil erosion.

(5) Hedge means a row of closely planted shrubs or low-growing trees which commonly form a continuous visual screen, boundary, or fence.

(6) Hydro-seeding means a method of planting grass where a mixture of the seed, water, and mulch is mechanically sprayed over the surface of the ground.

(7) Interior parking lot landscaping means a landscaped area located in the interior of a parking lot in such a manner as to improve the safety of pedestrian and vehicular traffic, guide traffic movement, and improve the appearance of the parking area.

(8) Mulch means a layer of wood chips, dry leaves, straw, hay, plastic, or other materials placed on the surface of the soil around plants to retain moisture, prevent weeds from growing, hold the soil in place, or aid plant growth.

(9) Nurse grass means any of a variety of rapidly-growing annual or perennial rye grasses used to quickly establish ground cover to prevent dust or soil erosion.

(10) Screen or screening means a wall, wood fencing, or combination of plantings of sufficient height, length, and opacity to form a visual barrier. If the screen is composed of nonliving material, such material shall be compatible with materials used in construction of the main building, but in no case shall include wire fencing.

(11) Shrub means a self-supporting, deciduous or evergreen woody plant, normally branched near the base, bushy, and less than fifteen (15) feet in height.

(12) Tree means a self-supporting woody plant with a well-defined central trunk or stem which normally grows to a mature height of fifteen (15) feet or more in Wayne County, Michigan.

a. Deciduous tree means a variety of tree that has foliage that is shed at the end of the growing season.

b. Evergreen tree means a variety of tree that has foliage that persists and remains green throughout the year.

(13) Ornamental tree means a deciduous tree which is typically grown because of its shape, flowering characteristics, or other attractive features, and which grows to a mature height of twenty-five (25) feet or less.

(14) Shade tree means, for the purposes of this chapter, a deciduous tree which has a mature crown spread of fifteen (15) feet or greater in Wayne County, Michigan, and has a trunk with at least five (5) feet of clear stem at maturity.

(15) Vine means a plant with a flexible stem supported by climbing, twining, or creeping along the surface, and which may require physical support to reach maturity.

Landscaping contractor's operation means a business engaged in the practice of improving building sites or other grounds by contouring the land and planting flowers, shrubs, and trees. A landscaping contractor's operation typically consists of equipment, tools, vehicles, and materials used in or associated with such a business.

Livestock means horses, cattle, sheep, goats, chickens, ducks, and other domestic animals normally kept or raised on a farm.

Loading space means an off-street space on the same lot as the building or buildings being served, for the temporary parking of delivery vehicles while loading and unloading merchandise or materials.

Lodging house or rooming house means a building (other than a hotel, motel, nursing home, or private residence) where for compensation and by prearrangement for definite periods of time, lodging only is provided for five (5) or more persons.

Lot means land occupied or to be occupied by a use, building or structure and permitted accessory buildings together with such open spaces, lot width, and lot area as are required by this chapter and having its principal frontage upon a public street or upon a private way used for street purposes. A lot need not be a lot of record.

Lot area means the total horizontal area within the lot lines of a lot. For lots fronting or lying adjacent to private streets, lot area shall be interpreted to mean that area within lot lines separating the lot from the private street, and not the centerline of the street.

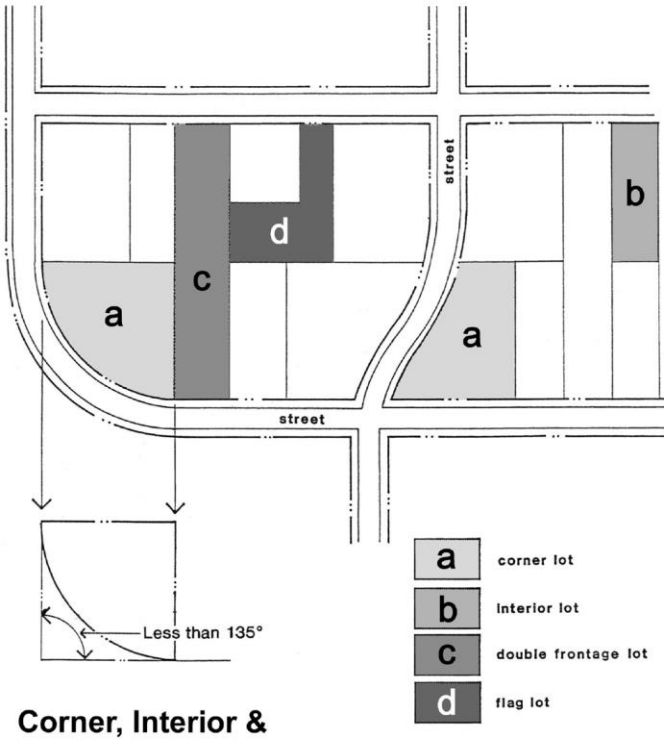
Lot, contiguous means lots adjoining each other.

Lot, corner, means a lot of which at least two (2) adjacent sides abut for their full length upon a street, provided that such two (2) sides intersect at an angle of not more than one hundred thirty-five (135) degrees. Where a lot is on a curve, if tangents through the extreme point of the street line of such lot make an interior angle of not more than one hundred thirty-five (135) degrees, it is a corner lot. In the case of a corner lot with curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above.

Lot coverage, residential, means the part or percent of the lot that is occupied by buildings or structures.

Lot coverage, nonresidential means the part or percent of the lot that is occupied by buildings, structures, paved surfaces, or other impervious surfaces.

Lot depth means the horizontal distance from the front street line to the rear lot line, measured along the median between the side lot lines.



Corner, Interior & Double Frontage Lots

Lot, double-frontage, or through lot means an interior lot having frontages on two (2) more-or-less parallel streets (as distinguished from a corner lot). In the case of a row of double-frontage lots, one street shall be designated as the front street in the plat.

Lot, flag, means a lot which is located behind other parcels or lots fronting on a public road, but which has a narrow extension to provide access to the public road.

Lot, interior, means a lot other than a corner lot or double-frontage (through) lot.

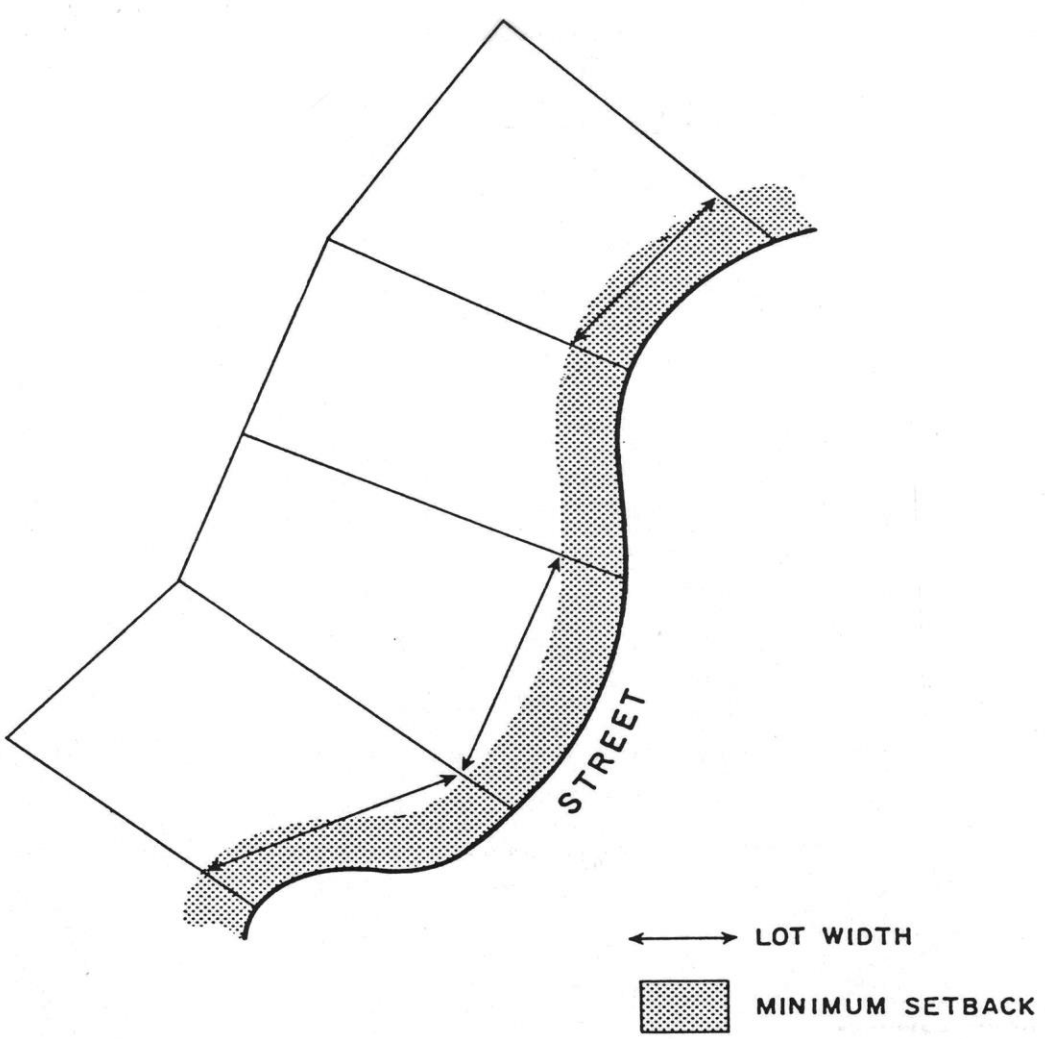
Lot lines mean the property lines bounding the lot:

(1) *Front lot line.* In the case of a lot abutting upon one (1) public or private street, the front lot line shall mean the line separating such lot from such street right-of-way. In the case of a corner or double-frontage lot, the front lot line shall be that line which separates said lot from the right-of-way for the road which is designated as the front on the plat, or which is designated as the front on the site plan review application or request for a building permit, subject to approval by the planning commission or building official. On a flag lot, the front lot line shall be the interior lot line most parallel to and nearest the street form which access is obtained.

(2) *Rear lot line.* Ordinarily, that lot line which is opposite and most distant from the front lot line. In the case of an irregular, triangular, or wedge-shaped lot, a line ten feet in length entirely within the lot parallel to and at the maximum distance from the front lot line of the lot shall be considered to be the rear lot line for the purpose of determining depth of rear yard. In cases where none of these definitions are applicable, the building inspector shall designate the rear lot line.

(3) *Side lot line.* Any lot line that is not a front lot line or a rear lot line, as defined above. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

Lot width means the straight line distance between the side lot lines, measured at the two (2) points where the minimum front yard setback line intersects the side lot lines.



LOT WIDTH AND MINIMUM SETBACK

Lot of record means a parcel of land, the dimensions and configuration of which are shown on a subdivision plat recorded in the offices of the Wayne County Register of Deeds and City Assessor, or a lot or parcel described by metes and bounds, and accuracy of which is attested to by a land surveyor (registered and licensed in the State of Michigan) and likewise so recorded with the Wayne County Register of Deeds and City Assessor.

Lot split and consolidation means the dividing or uniting of lots by virtue of changes in the deeds in the office of the Wayne County Register of Deeds and/or the city assessor.

Lounge. See Restaurant, bar or lounge.

Main access drive means any private street designed to provide access from a public street or road to a mobile home park, apartment or condominium complex, or other private property development.

Marginal access road. See Secondary access drive.

Massage parlor. See Adult regulated uses, massage parlor.

Master plan means the document which is prepared under the guidance of the planning commission and consists of graphic and written materials which indicate the general location for streets, parks, schools, public buildings and all physical development of the city. As used in this chapter, the term refers to the master plan adopted by the city council on May 8, 2007, as amended.

Mezzanine. See Story.

Mini-warehouse means a building or group of buildings, each of which contains several individual storage units, each with a separate door and lock and which can be leased on an individual basis. Mini-warehouses are typically contained within a fenced, controlled-access compound.

Mobile home. See Dwelling, mobile home.

Mobile home park means a parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home, subject to conditions set forth in the Mobile Home Commission Rules and Michigan Public Act 96 of 1987, as amended.

Mobile home lot means an area within a mobile home park which is designated for the exclusive use of a specific mobile home.

Mortuary or funeral home means an establishment where the dead are prepared for burial or cremation and where wakes or funerals may be held.

Motel means a building or series of buildings in which lodging is offered for compensation to transient guests. A motel is distinguished from a hotel by providing direct independent access to and adjoining parking for each rental unit.

Motorcycle means every motor vehicle designed to travel on not more than three (3) wheels in contact with the ground, and includes motor scooters and bicycles with motor attached.

Multiple-family dwelling. See Dwelling, multiple-family.

Natural features shall include soils, wetlands, floodplains, water bodies and channels, topography, trees and other types of vegetative cover, and geologic formations.

Nonconformity means any lot, site, use of land, or structure which, at the time of adoption of this chapter or any amendment thereto, does not conform to the standards and regulations for the district in which it is located. See also the definitions in article XVIII, Nonconformities.

Nuisance means any offensive, annoying, or disturbing practice or object, which prevents the free use of one's property, or which renders its ordinary use or physical occupation uncomfortable. Nuisance commonly involves continuous or recurrent acts which give offense to the senses, violate the laws of decency, obstruct reasonable and comfortable use of property, or endangers life and health.

Nursery, day nursery, nursery school. See Child care center.

Nursery, tree and shrub, means a space, building, and/or structure, or combination thereof, where live trees, shrubs, and other plants used for gardening and landscaping are propagated, stored, and/or offered for sale on the premises.

Nursing home, convalescent home, or rest home means a home for the care of the aged, infirm, or those suffering from bodily disorders, wherein two (2) or more persons are housed or lodged and provided with nursing care. The home shall conform and qualify for license under Part 217 of Michigan Public Act 368 of 1978, as amended (MCL 333.21701, et seq.).

Occupancy, change of, means a discontinuance of an existing use and the substitution of a use of a different kind or class, or the expansion of a use.

Occupied means used in any way at the time in question.

Office means a building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

Open-air business uses means any business that is conducted primarily out-of-doors. Unless otherwise specified herein, open-air business shall include:

(1) Retail sale of garden supplies and equipment, including trees, shrubbery, plants, flowers, seed, topsoil, humus, fertilizer, trellises, and lawn furniture.

(2) Roadside stands for the retail sale of agricultural products, including fruits, vegetables, and Christmas trees.

(3) Outdoor recreation uses, including tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, and amusement parks.

(4) Bicycle, trailer, motor vehicle, boats, or home equipment sales, service, or rental services.

(5) Outdoor display and sale of garages, swimming pools, playground equipment, and similar uses.

Open space means that part of a zoning lot, including courts and/or yards, which is open and unobstructed from its lowest level to the sky, and is accessible to all residents upon the zoning lot.

Outdoor storage means the keeping, in an unroofed area, of any goods, junk, material, merchandise or vehicles in the same place for more than twenty-four (24) hours.

Outlot means a parcel of land which is designated as an "outlot" on the recorded plat, and which is usually not intended to be used for the same purposes as other lots in the plat.

Parcel means a continuous area, trace, or acreage of land that has not been divided or subdivided according to the provisions of the Subdivision Control Act and has frontage on a public street.

Package liquor store means a retail establishment licensed by the State of Michigan where more than ten percent of the gross floor area is utilized for the storage, display, and sale of alcoholic beverages, in the original container and for consumption off the premises.

Parking lot, off-street means a facility providing vehicular parking spaces, along with adequate drives and aisles for maneuvering, so as to provide safe and convenient access for entrance and exit for the parking of more than three (3) automobiles.

Parking space means an area of definite width and length as designated in this chapter for parking an automobile or other vehicle, such space being exclusive of necessary drives, aisles, entrances, or exits and being fully accessible for the storage or parking of permitted vehicles.

Performance guarantee means a financial guarantee to ensure that all improvements facilities, or work required by this chapter will be completed in compliance with the ordinance, regulations, and approved plans and specifications of the development.

Person means any individual, trustee, executor, fiduciary, corporation, firm, partnership, association, organization, or other legal entity acting as a unit.

Personal care services means the provision of appearance care services to individual consumers. Examples include hair, nail, or skin care; non-medical weight loss centers; therapeutic massage; and tanning salons.

Personal fitness center means a facility which provides indoor exercise facilities, such as exercise machines and weight-lifting equipment, usually in a structured physical activity program supervised by professional physical

fitness instructors. As defined herein, "personal fitness center" shall not include court sports facilities or spectator seating for sports events. A personal fitness center may or may not be enclosed within a gym.

Pervious surface means a surface that permits full or partial absorption of storm water.

Pet means a domesticated dog, cat, bird, gerbil, hamster, guinea pig, turtle, fish, rabbit, or other similar animal that is commonly available and customarily kept for pleasure or companionship.

Planned development means a planning or construction project involving the use of special zoning requirements and review procedures which are intended to provide design and regulatory flexibility, so as to encourage innovation in land use planning and design and thereby achieve a higher quality of development than might otherwise be possible. See article XVII, Planned Developments.

Planner, city, means the person or firm designated by the city council and planning commission to advise the city administration, city council, and planning commission on planning, zoning, land use, housing, and other related planning and development issues. The city planner may be a consultant or an employee of the city.

Planning commission means the Planning Commission of the City of Dearborn Heights.

Platted lot of record means a building lot described as a portion of a plat recorded with the county register of deeds and existing at the time of adoption or amendment of this chapter.

Principal use. See Use, principal.

Private street or private road. See Road.

Property line means the line separating a piece of property from the street right-of-way and the lines separating a parcel of property from the parcels next to it. See also Lot line.

Protected wetlands shall mean all wetlands subject to regulation by the Michigan Department of Environmental Quality (MDEQ), including:

(1) Wetlands, regardless of size, which are partially or entirely within five hundred (500) feet of the ordinary high water mark of any lake, stream, river or pond whether partially or entirely contained within the project site.

(2) Wetlands, regardless of size, which are partially or entirely within five hundred (500) feet of the ordinary high water mark of any lake, stream, river or pond unless it is determined by the MDEQ that there is no surface water or groundwater connection between the wetland and the water body.

(3) Wetlands which are larger than five (5) acres, whether partially or entirely contained within the project site, and which are not contiguous to any lake, stream, river, or pond.

(4) Wetlands, regardless of size, which are not contiguous to any lake, stream, river, or pond, if the MDEQ determines the protection of the wetland is essential to the preservation of the natural resources of the state from pollution, impairment or destruction.

Public safety official generally means the departments or persons who perform police, fire fighting, and other public safety functions for the city.

Public utility means any persons, firm, corporation, municipal department, or board, duly authorized to furnish under federal, state, or local regulations a service which is of public consequence and need. The principal distinctive characteristics of a public utility are that: (1) because of the nature of its business, it has characteristics of a natural monopoly, and (2) it provides a service to an indefinite public (or portion of the public) which has a legal right to demand and receive its services. Services for the purposes of this chapter include gas, electricity, steam, water, sewage, transportation, telephone, and cable television.

Real property includes the surface, whatever is attached to the surface (such as buildings or trees), whatever is beneath the surface (such as minerals), and the area above the surface, i.e., the sky.

Recreation establishment, indoor, means a privately-owned facility designed and equipped for the conduct of sports, amusement, or leisure time activities and other customary recreational activities indoors (within an enclosed building) and operated as a business and open for use by the public for a fee, such as gymnasiums and fitness centers, bowling alleys, indoor soccer facilities, racquetball and tennis clubs, ice and roller skating rinks, curling centers, and firearms ranges.

Recreation establishment, outdoor, means a privately owned facility designed and equipped for the conduct of sports, amusement or leisure time activities and other customary recreational activities outdoors (outside of an enclosed building) and operated as a business and open for use by the public for a fee such as tennis clubs, archery ranges, golf courses, miniature golf courses, golf driving ranges, water slides, batting cages and machines, skateboarding parks, and children's amusement parks.

Recreational land means any public or privately owned lot or land that is utilized for recreation activities such as, but not limited to, camping, swimming, picnicking, hiking, nature trails, boating, and fishing.

Recreational vehicle shall include the following:

(1) *Travel trailer:* A portable vehicle on a chassis, which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses, and which may be identified as a "travel trailer" by the manufacturer. Travel trailers generally contain sanitary, water, and electrical facilities.

(2) *Pickup camper:* A structure designed to be mounted on a pickup chassis with sufficient equipment to render it suitable for use as a temporary dwelling during the process of travel, recreational and vacation uses.

(3) *Motor home:* A recreational vehicle intended for temporary human habitation, sleeping, and/or eating, mounted upon a chassis with wheels and capable of being moved from place to place under its own power. Motor homes generally contain sanitary, water, and electrical facilities.

(4) *Folding tent trailer:* A folding structure mounted on wheels and designed for travel and vacation use.

(5) *Boats and boat trailers:* "Boats" and "boat trailers" shall include boats, floats, rafts, canoes, plus the normal equipment to transport them on the highway.

(6) *Other recreational equipment:* Other recreational equipment includes snowmobiles, all terrain or special terrain vehicles, utility trailers, plus the normal equipment to transport them on the highway.

Recognizable and substantial benefit means a clear benefit, both to the ultimate users of the property in question and to the community, which would reasonably be expected to accrue, taking into consideration the reasonably foreseeable detriments of the proposed development and uses. Such benefits may include: long-term protection or preservation of natural resources and natural features, historical features, or architectural features; or, elimination of or reduction in the degree of nonconformity in a nonconforming use or structure.

Recycling center means a facility at which used material is separated and processed prior to shipment to others who will use the materials to manufacture new products.

Recycling collection station means a facility for the collection and temporary storage of recoverable resources, prior to shipment to a recycling center for processing.

Restaurant means any establishment whose principal business is the sale of food or beverages in a ready-to-consume state, and whose method of operation is characteristic of a carry-out, delivery, drive-in, drive-through, fast-food, or standard restaurant, or bar/lounge, or combination thereof, as defined below:

(1) Carry-out restaurant means a restaurant whose method of operation involves sales of food, beverages, and/or frozen desserts in disposable or edible containers or wrappers in a ready-to-consume state for consumption primarily off the premises.

(2) Delivery restaurant means a restaurant whose method of operation involves the exclusive transportation of food and/or beverages to customers off the premises, with no accommodation for customer to purchase, pick up, or consume food on the premises.

(3) Drive-in restaurant means a restaurant whose method of operation involves a drive-in business, as defined under automobile-oriented use in this section.

(4) Drive-through restaurant means a restaurant whose method of operation involves a drive-through business, as defined under automobile-oriented use in this section.

(5) Fast-food restaurant means a restaurant whose method of operation involves minimum waiting for delivery of food to the customer in disposable containers for consumption primarily on the premises, but not in a motor vehicle at the site.

(6) Standard restaurant means a restaurant whose method of operation involves either:

a. The delivery of prepared food and/or beverages by waitpersons to customers seated at tables within a completely enclosed building and/or in an approved outdoor seating area pursuant to this chapter; or

b. The delivery to customers at a cafeteria line of prepared food and/or beverages, which is subsequently consumed by the customers at tables within a completely enclosed building and/or in an approved outdoor seating area pursuant to this chapter.

(7) Bar or lounge means a type of restaurant which is operated primarily for the dispensing of alcoholic beverages, although the sale of prepared food or snacks may also be permitted. If a bar or lounge is part of a larger dining facility, it shall be defined as that part of the structure so designated or operated.

(8) Hookah/Shisha bars/cafés means a type of establishment where patrons share flavored tobacco from a communal hookah or nargile and where the sale of alcoholic beverages and/or prepared foods or snacks may also be permitted. If a bar or lounge is part of a larger dining facility, it shall be defined as that part of the structure so designated or operated.

Retention basin means a pond, pool, or basin used for the permanent storage of water runoff.

Retail store means a showroom, sales floor, display area or similar facility for the selling, trading and exchanging of goods, wares or merchandise for direct consumption (not for resale) directly to the consumer and completely within an enclosed building.

(1) Such goods, wares or merchandise shall include appliances, bicycles, books, clothing, crafts, drugs and pharmaceutical items, dry goods, electronics, flowers, home furnishings, gifts, grocery and produce items, hardware, jewelry, musical instruments and supplies, optical goods, paint or wallpaper, pets, photographic supplies, recorded music, sporting goods, toys, and similar items.

(2) Included in this definition are convenience stores, department stores, variety stores, "big-box" stores, supermarkets, wholesale club stores, shopping centers and shopping malls.

(3) Also included in this definition are mail-order sales, Internet sales and similar activities, provided such activities are accessory to the principal use of retail sales to the customer in the building.

(4) This definition does not include temporary uses, outdoor display or sales areas, or adult regulated uses and sexually-oriented businesses.

Right-of-way means the strip of land over which an easement exists to allow facilities such as streets, roads, highways, and power lines to be built.

Road. See Street.

Room, for the purpose of determining lot area requirements and density in a multiple-family district, a room is a living room, dining room or bedroom, equal to at least eighty (80) square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways and storage. Plans presented showing 1, 2, or 3-bedroom units and including a "den", "library", or other extra room shall count such extra room as a bedroom for the purpose of computing density.

Rooming house. See Lodging house.

Rubbish means the miscellaneous waste materials resulting from housekeeping, mercantile enterprise, trades, manufacturing and offices, including other waste matter such as slag, stone, broken concrete, fly ash, ashes, tin cans, glass, scrap metal, rubber, paper, rags, chemical, or any similar or related combination thereof.

Satellite dish antenna means an electronic device that can collect electromagnetic waves transmitted from a satellite for conversion into television or sound.

Secondary access drive means a road that is generally parallel to and adjacent to an arterial road and that is designed to provide access to abutting properties so that these properties are separated from the through traffic on the arterial road and so that the flow of traffic on the arterial road is not impeded by direct driveway access from a large number of abutting properties.

Self-storage facility. See Mini-warehouse.

Semi-trailer means a trailer, which may be enclosed or not enclosed, having wheels generally only at the rear, and supported in front by a truck tractor or towing vehicle.

Senior citizen housing means an institution other than a hospital, hotel, or state licensed residential facility, which provides room and board to non-transient persons primarily fifty-five (55) years of age or older. Such housing may include the following:

(1) Assisted living facility means a facility providing responsible adult supervision of or assistance with routine living functions of an individual in instances where the individual's condition necessitates that supervision or assistance.

(2) Congregate housing means a type of semi-independent housing facility containing common kitchen, dining, and living areas, but with separate sleeping rooms. Such facilities typically provide special support services, such as transportation and limited medical care, but not including foster care or nursing care.

(3) Dependent housing facility means a facility, such as a nursing home, which is designed for older persons who require a wide range of health and support services, including personal nursing care.

(4) Senior apartment means a multiple-family dwelling unit intended to be occupied by persons fifty-five (55) years of age or older.

(5) Senior housing complex means a building or group of buildings containing dwellings where the occupancy is restricted to persons fifty-five (55) years of age or older, or couples where either the husband or wife is fifty-five (55) years of age or older.

Setback means the distance between a front, side, or rear lot line and the nearest supporting member of a structure on the lot.

Setback measurement line means a line drawn parallel to the centerline of the road on the zoning map from which the front setback shall be measured.

Shopping center means a unified group of retail business and service uses under common architecture and served by a common circulation and parking system.

Sign. See chapter 26, Signs.

Single-family dwelling. See Dwelling, one-family or single-family.

Site plan means a plan, prepared to scale as required by article XIV, division 2, Site plan review, showing accurately and with complete dimensioning the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land.

Soil removal or excavation means the removal of any kind of soil or earth matter which includes topsoil, sand, gravel, clay or similar materials or any combination thereof except common household gardening.

Solar access easement means a right, expressed as an easement, covenant, condition, or other property interest in any deed or other instrument executed by or on behalf of any landowner, which protects the solar skyspace of an actual, proposed, or designated solar collector at a described location by forbidding or limiting activities, land uses, structures and/or trees that interfere with access to solar energy. Any property owner may give or sell his right to access to sunlight.

Solar collector means a device or combination of devices, structures, or parts thereof, such as flat plate collectors and photovoltaic cells, that collects, transfers, or transforms direct solar energy into thermal, chemical, or electrical energy, and that contributes significantly to a structure's energy supply. In addition to such functions, solar collectors may also serve as a part of a structure roof, wall, window, or other structural member.

Solar energy means radiant energy, direct, diffuse, or reflected, received from the sun.

Solar energy system means a complete design or assembly consisting of a solar collector, an energy storage facility (where used), and components for the distribution of transformed energy (to the extent they cannot be used jointly with a conventional energy system).

(1) Active solar energy systems utilize mechanically operated solar collectors to collect, transfer, or store solar energy.

(2) Passive solar energy systems use natural and architectural components to collect and store solar energy without using external mechanical energy.

Solar skyspace means the three-dimensional space between a solar collector and the sun, which must be free of obstructions that shade the collector to an extent that precludes its cost-effective operation.

Special event means an occurrence or noteworthy happening of seasonal, civic, or church importance, which is organized and sponsored by a nonprofit Dearborn Heights community group, organization, club or society, and which offers a distinctive service to the community, such as public entertainment, community education, civic celebration, or cultural or community enrichment. Special events typically run for a short period of time (less than two (2) weeks) and are unlike the customary or usual activities generally associated with the property where the special event is to be located.

Special land use means a use, either public or private, which possesses unique characteristics and therefore cannot be properly classified as a permitted use in a particular zoning district. After due consideration of the impact of any such proposed use upon the neighboring land and of the public need for the particular use at the proposed location, such special land use may be permitted following review and approval, subject to the terms of this chapter.

State licensed residential facility means any structure constructed for residential purposes that is licensed by the State of Michigan pursuant to Michigan Public Act 116 of 1973 (the Child Care Licensing Act) or Michigan Public Act 218 of 1979 (the Adult Foster Care Facility Licensing Act). This definition includes adult foster care facilities, foster family homes, foster family group homes, family day care homes, and group day care homes (see Human Services Facilities Subject to State Licensing Chart).

(1) Adult foster care facility means a residential structure that is licensed to provide foster care, but not continuous nursing care, for unrelated adults over the age of seventeen (17). Adult foster care facilities

are subject to all applicable provisions, definitions, and regulations of Michigan Public Act 218 of 1979, as amended (MCL 400.701 et seq.).

a. Foster care means the provision of supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation.

b. Adult foster care facility does not include any of the following:

i. A licensed child caring institution, children's camp, foster family home, or foster family group home, subject to the limitations contained in section 3(4f) of Michigan Public Act 218 of 1979, as amended (MCL 400.703).

ii. A licensed foster family home that has a person who is eighteen (18) years of age or older placed in the foster family home under section 5(7) of Michigan Public Act 116 of 1973, as amended (MCL 722.115).

iii. An establishment commonly described as an alcohol or a substance abuse rehabilitation center; a residential facility for persons released from or assigned to adult correctional institutions; a maternity home; or a hotel or rooming house that does not provide or offer to provide foster care.

iv. A veterans' facility created by 1885 PA 152, MCL 36.1 to 36.12.

c. The following types of adult foster care facilities are provided for by this chapter:

i. Adult foster care family home means a private home with the approved capacity to receive not more than six (6) adults to be provided with foster care. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.

ii. Adult foster care small group home means an adult foster care facility with the approved capacity to receive not more than twelve (12) adults to be provided with foster care. Facilities with the approved capacity for seven (7) or more adults are subject to special use approval.

iii. Adult foster care large group home means an adult foster care facility with the approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided with foster care. Facilities are subject to special use approval.

iv. Adult foster care congregate facility means an adult foster care facility with the approved capacity to receive more than twenty (20) adults to be provided with foster care. Facilities are subject to special use approval.

(2) Family day care home means a private home in which one (1) but fewer than seven (7) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home in which care is given to an unrelated minor child for more than four (4) weeks during a calendar year.

(3) Foster family home means a private home in which one (1) but not more than four (4) minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household under the Michigan Adoption Code, are given care and supervision for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

(4) Foster family group home means a private home in which more than four (4) but fewer than seven (7) minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household under the Michigan Adoption Code, are given care and

supervision for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

(5) Group day care home means a private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home in which care is given to an unrelated minor child for more than four (4) weeks during a calendar year.

(6) Private home means a private residence in which the licensee or registrant permanently resides as a member of the household, which residency is not contingent upon caring for children or employment by a licensed or approved child placing agency.

Human Services Facilities Subject to State Licensing				
	Number of Persons	Private Home?	Subject to Special Use Approval?	Supplemental Use Standards
Less than 24-hour Care				
Persons under age 18				
Family Day Care Home	1—6	Yes	No	[Section 6.110]
Group Day Care Home	7—12	Yes	Yes	[Section 6.110]
Child Care Center or Day Care Center	1 or more	No	Yes	Section 36-166
24-hour Care				
Persons under age 18				
Foster Family Home	1—4	Yes	No	[Section 6.110]
Foster Family Group Home	4—6	Yes	No	[Section 6.110]
Persons age 18 and over				
Adult Foster Care Family Home	1—6	Yes	No	[Section 6.110]
Adult Foster Care Small Group Home	1—12	No	Yes, if 7 or more persons	[Section 6.110]
Adult Foster Care Large Group Home	13—20	No	Yes	[Section 6.110]
Adult Foster Care Congregate Facility	20 or more	No	Yes	[Section 6.110]
Nursing Home	2 or more	No	Yes	Section 36-147

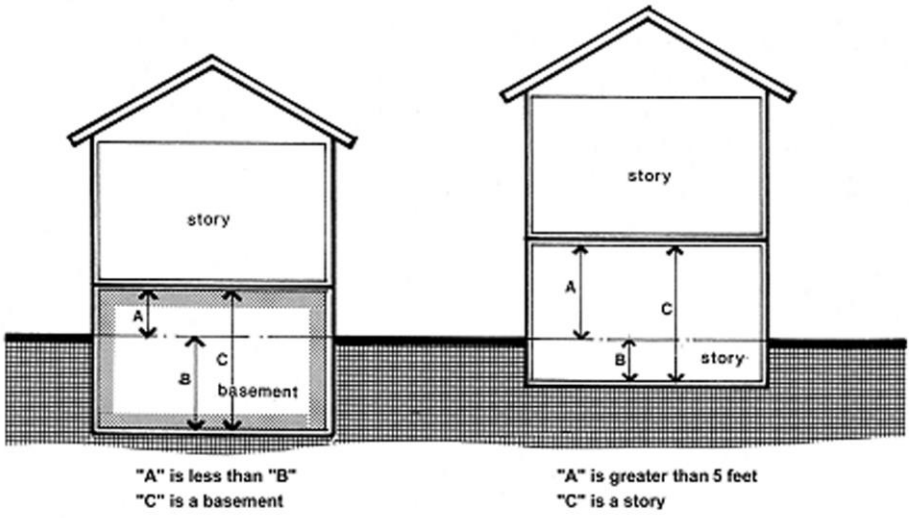
Story means that portion of a building, other than a basement or mezzanine, included between the upper surface of any floor and the upper surface of the floor or roof next above it.

(1) Basement means a portion of a building partly or totally below grade. A basement shall be considered a full story if more than one-half (½) of its height is above the elevation of the reference level.

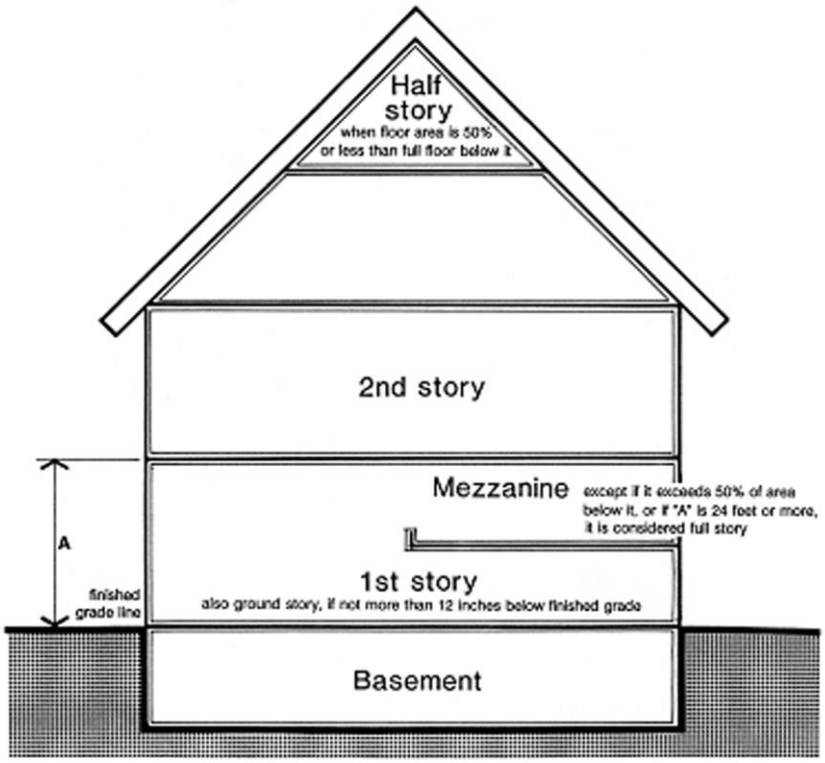
(2) Ground story means the lowest story of a building, the floor of which is not more than twelve (12) inches below the elevation of the reference level.

(3) Half story means a story, located between a pitched roof and the uppermost full story, which does not cover more than one-half (½) of the floor area of a full story.

(4) Mezzanine means an intermediate story which does not cover more than one-half (½) of the floor area of the story underneath it. A mezzanine shall be considered a full story if the vertical distance from the story next below it and the story next above it is twenty-four (24) feet or greater.



Basement and Story



Basic Structural Terms

Street means any thoroughfare, other than a public or private alley, that affords traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare.

(1) *Arterial street or arterial road* means a street that carries high volumes of traffic and serves as an avenue for circulation of traffic into, out of, or around the city. An arterial street may also be a major thoroughfare.

(2) *Collector street or collector road* means a street whose principal function is to carry traffic between minor, local, and subcollector streets and an arterial street, but which may also provide direct access to abutting properties.

(3) *Cul-de-sac* means a road that terminates in a vehicular turnaround.

(4) *Local street or local road* means a street whose sole function is to provide access to abutting properties. Also known as a minor street or minor road.

(5) *Major thoroughfare* means an arterial street which is intended to service a large volume of traffic for both the immediate area and the region beyond, and may be designated as a thoroughfare, parkway, freeway, expressway, or equivalent term to identify those roads comprising the basic structure of the roads plan.

Major thoroughfares in the city include:

a. Joy Road,

b. Ann Arbor Trail,

c. Warren Avenue,

d. Ford Road,

e. Cherry Hill Road,

f. Michigan Avenue,

g. Van Born Road,

h. Inkster Road,

i. Beech-Daly Road,

j. Telegraph Road,

k. Outer Drive,

l. Pelham Road, and

m. Southfield Freeway.

(6) *Private street* means any street which is to be privately maintained and has not been accepted for maintenance by the city, Wayne County, the State of Michigan, or the federal government. All private streets must meet the standards of this chapter or have been approved as a private street prior to the adoption of this chapter or amendments thereto.

(7) *Public street* means any street accepted, by dedication or otherwise, for maintenance by the city, Wayne County, the State of Michigan, or the federal government.

(8) *Subcollector street or subcollector road* means a street whose principal function is to provide access to abutting properties, but which is designed to be used (or is used) to connect local streets with collector or arterial streets.

Street lot line means a dividing line between the street and a lot, also known as the right-of-way line.

Structural addition means any alteration that changes the location of the exterior walls or area of a building.

Structural alteration means any change in the supporting members of a building or structure, such as bearing walls or partitions, columns, beams or girders or any change in the width or number of exits or any substantial change in the roof.

Structure means anything constructed or erected which requires permanent location on the ground or attachment to something having such location.

Structures include, but are not limited to, principal and accessory buildings, towers, decks, fences, privacy screens, walls, antennas, swimming pools, treehouses, and signs.

Subdivision plat means the division of a tract of land for the purpose of sale or building development, in accordance with the Subdivision Control Act, Michigan Public Act 288 of 1967, as amended, and the Dearborn Heights Subdivision Regulations, Chapter 29, as amended.

Subdivision regulations means the regulations governing the subdivision of land, providing for the procedure for the preparation and filing of plats, tentative approval of preliminary plats, submission of record of final plats, approval of the plat by the council, providing for platting regulations and requirements in regard to conformity to the city's comprehensive development plan, as to streets, alleys, easements, blocks and lots, and to provide penalties for the violation thereof, as promulgated and created by the city planning commission.

Supermarket means a retail store with more than twenty thousand (20,000) square feet of gross floor area, offering groceries, meats, poultry, seafood, dairy products, produce, bakery products, other food products, and other associated merchandise, and which may have facilities for a butcher shop, fresh seafood, a delicatessen, a bakery, a party store, a restaurant, an ice cream parlor, a florist, a pharmacy, a financial institution, or other services.

Swimming pool means any permanent, non-portable structure or container located either above or below grade designed to hold water to a depth of greater than twenty-four (24) inches, intended for swimming or bathing. A swimming pool shall be considered an accessory structure for purposes of computing lot coverage.

Tattooing means a placement in human tissue of any indelible design, letter, scroll, figure, symbol, or other mark placed with the aid of needles or other instruments; or any design, letter, scroll, figure, or symbol done by scarring upon or under the skin. Tattooing shall include the term "body art".

Tattoo parlor means any room or space where tattooing is performed for compensation.

Temporary use or temporary structure means a use or structure permitted to exist for a limited period of time under conditions and procedures as provided for in this chapter.

Theater means an enclosed building used for presenting performances or motion pictures which are observed by paying patrons from seats situated within the building.

Thoroughfare. See Street.

Toxic waste or hazardous waste means waste or a combination of waste and other discarded material (including, but not limited to, solid, liquid, semisolid, or contained gaseous material) which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to the following if improperly treated, stored, transported, disposed of, or otherwise managed:

(1) An increase in mortality, or

(2) An increase in serious irreversible illness, or

(3) Serious incapacitating, but reversible illness, or

(4) Substantial present or potential hazard to human health or the environment.

Truck means any motorized vehicle used primarily for the transportation of property.

(1) Light truck means trucks and similar vehicles with single rear axles and single rear wheels.

(2) Medium truck means trucks and similar vehicles with single rear axles and dual rear wheels, except for truck tractors.

(3) Heavy truck means trucks and similar vehicles with two (2) or more rear axles, including truck tractors.

Truck stop means a commercial establishment engaged primarily in the fueling and/or parking of commercial heavy trucks and similar vehicles, including the sale of accessories and equipment for such vehicles. A truck stop typically includes showers and/or restaurant facilities for use primarily by truck crews. A truck stop may include the following:

(1) Minor repair service for trucks;

(2) Truck wash facilities;

(3) Overnight parking areas; or

(4) Overnight accommodations for truck crews.

Two-family dwelling. See Dwelling, two-family or duplex.

Underlying zoning means the zoning classification and regulations applicable to the property immediately preceding the approval of an application to designate a parcel planned development.

Use means the purpose for which land, lots, or buildings thereon is designed, arranged, or intended, or for which it is occupied, maintained, let, or leased.

(1) *Accessory use means* a use naturally and normally incidental to, subordinate to, and auxiliary to the permitted use of the premises.

(2) *Conditional use.* See Special land use.

(3) *Permitted use* means a use which may be lawfully established in a particular district provided it conforms to all requirements, regulations, and standards of such district.

(4) *Principal use* means the main use of land and buildings and the main purpose for which land and buildings exist.

(5) *Special use.* See Special land use.

Utility room means a room or space, located other than in the basement, specifically designed and constructed to house any home utilities or laundry facilities.

Utility trailer means a small trailer that is designed to be pulled by an automobile, van, or pick-up truck.

Variance means permission to deviate from the literal provisions of this chapter.

(1) Dimensional variance or non-use variance means a variance from the requirements of this chapter, except permitted or prohibited uses of land, for cases in which strict application of this chapter would cause practical difficulties owing to unique characteristics of the subject parcel.

(2) Use variance means a variance from the requirements of this chapter relating to the permitted or prohibited uses of land for cases in which strict application of this chapter would cause unnecessary hardship that would deprive the property owner of reasonable use of land of any structure thereon. The inclusion of this definition in this section does not imply permission to grant a use variance.

Wall, obscuring, means a structure of definite height and location to serve as an opaque screen in carrying out the requirements of this chapter.

Warehouse means a building used primarily for storage of goods and materials. See also Distribution center.

Watercourse means any waterway, including a river, stream, lake, pond, or any body of surface water, having definite banks, a bed, and visible evidence of continued flow or continued occurrence of water. A watercourse may or may not be serving as a drain as defined by Act 40 of the Public Acts of 1956, as amended. A watercourse does not include a retention or detention pond constructed as a landscape feature or for the purposes of stormwater management.

Wetland means land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life. Wetland includes any area commonly referred to as a bog, swamp, or marsh.

Wholesale sales means the sales of goods generally in large quantities and primarily to customers engaged in the business of reselling the goods.

Wireless communication facility means all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment buildings and commercial mobile radio service facilities. Not included within this definition are: citizen band radio facilities; short wave facilities; ham, amateur radio facilities; satellite dishes; and, governmental facilities which are subject to state or federal laws or regulations which preempt municipal regulatory authority.

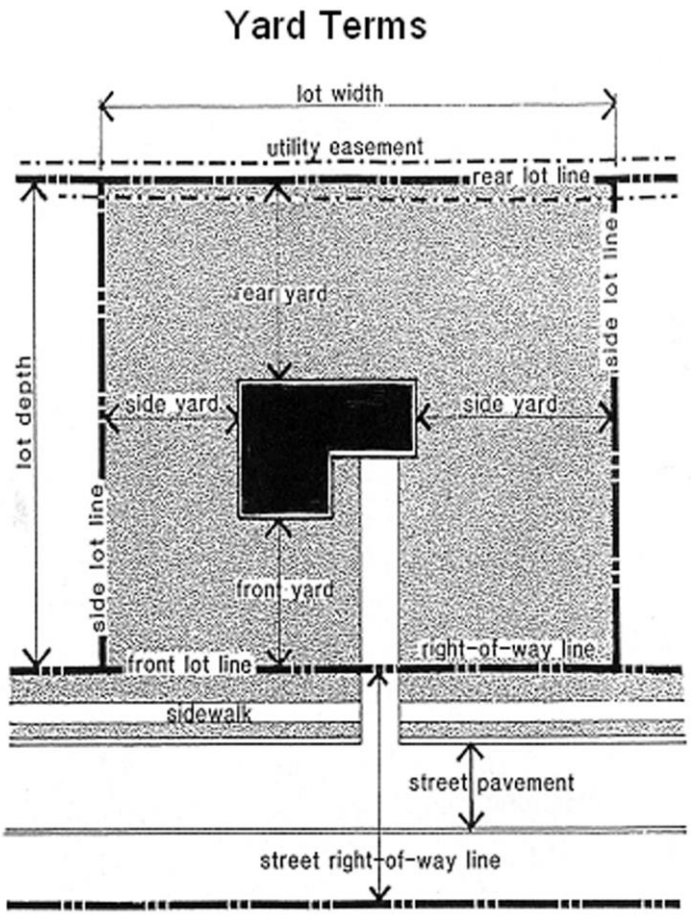
Wireless communication support structures means structures erected or modified to support wireless communication antennas, including but not limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.

Yard means an open space that is on the same lot with a building and unoccupied and unobstructed from the ground upward, except as otherwise provided herein. The measurement of a yard is the minimum horizontal distance between the lot line and the building or structure (See illustrations).

(1) *Front yard* means a yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest line of the principal building on the lot.

(2) *Rear yard* means a yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest line of the principal building on the lot.

(3) *Side yard* means a yard extending from the front yard to the rear yard, the depth of which is the minimum horizontal distance between the side lot line and the nearest line of the principal building on the lot. In the absence of either of a front yard or rear yard, a side yard shall extend from the front lot line to the rear lot line.

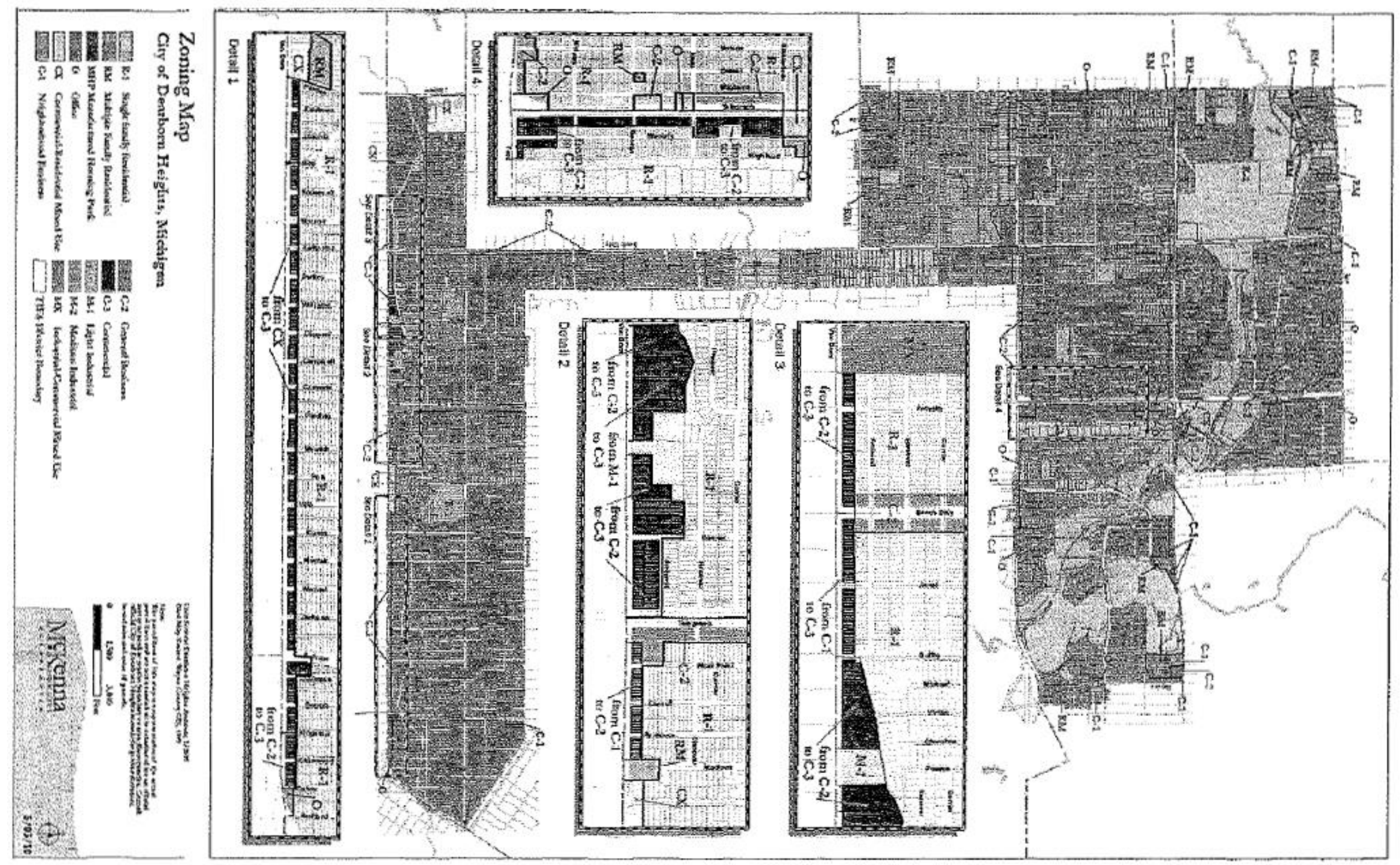


Zoning board of appeals means the zoning board of appeals of the City, as authorized by Act No. 110 of the Public Acts of Michigan of 2006 (MCL 125.3101 et seq.).

Zoning compliance permit means a permit issued by the building inspector certifying that the proposed use of land is in compliance with the use provisions of article VI of this chapter.

(Ord. No. H-07-01, § 2.02, 7-24-07)

Sec. 36-38. Zoning map.


Zoning Map
City of Dearborn Heights, Michigan
Detail 1
Detail 2
Detail 3
Detail 4

Secs. 36-39—36-50. Reserved.

ARTICLE III. ZONING DISTRICTS

DIVISION 1. PURPOSE OF DISTRICTS

Sec. 36-51. Zoning districts.

Division. For the purposes of this chapter, the City of Dearborn Heights is hereby divided into districts as follows:

(1) R1, Single-family residential district.

(2) RM, Multiple dwelling residential district.

(3) MHP, Mobile home park district.

(4) C1, Neighborhood business district.

(5) C2, General business district.

(6) C3, Commercial use district.

(7) CX, Commercial-residential mixed use district.

(8) O, Office district.

(9) M1, Light industrial district.

(10) M2, Medium industrial district.

(11) MX, Industrial-commercial mixed use district.

(Ord. No. H-07-01, § 3.101, 7-24-07; Ord. No. H-10-07, § IA, 11-23-10)

Sec. 36-52. Zoning map.

(a) The boundaries of the various zoning districts are shown upon the incorporated amended zoning map of the city, which shall be identified as the official zoning map of the city by the signature of the mayor and attested by the city clerk. The official zoning map shall bear the seal of the city under the following words:

"This is to certify that this is the Official Zoning Map of the City of Dearborn Heights, Michigan, effective as of the effective date of this ordinance [November 23, 2010]."

(b) *Inclusion in zoning ordinance.* The official zoning map and all notations, references, and other information shown thereon shall be adopted by reference and declared to be a part of this chapter. The official zoning map and all such notations, references, and other information shown thereon shall have the same force and effect as if fully set forth or described herein.

(c) *Boundaries of districts.* Except as explicitly referenced on the official zoning map, the boundary lines of zoning districts shall follow lot lines, the centerlines of streets or alleys (or such lines extended), and the corporate limits of the city, as they existed at the time of the adoption of this chapter.

(1) *Divided lots.* Where a district boundary line, as established in this section or as shown on the official zoning map, divides a lot which was in single ownership and of record at the time of enactment of this

chapter, the use authorized thereon and the district requirements applying to the least restricted portion of such lot shall be considered as extending to the entire lot, provided that the more restricted portion of such lot is entirely within twenty-five (25) feet of the dividing district boundary line. The use so extended shall be deemed to be conforming.

(2) *Boundary disputes.* Questions concerning the exact location of district boundary lines shall be determined by the zoning board of appeals, according to rules and regulations which may be adopted by the board.

(d) *Changes to zoning map.* If in accordance with the provisions of this chapter, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the map promptly after the amendment has been approved by the city council. No changes of any nature shall be made on the official zoning map, except in conformity with the amendment procedures set forth in article XIV, division 4, Amendments, or in conformity with the procedures set forth in the Michigan Zoning Enabling Act (P.A. 110 of 2006, as amended) for adoption of a new official zoning map.

(e) *Final authority.* The official zoning map shall be retained in the office of the city clerk, and shall be the final authority as to the current zoning status of land, water areas, and structures in the city.

(Ord. No. H-07-01, § 3.102, 7-24-07; Ord. No. H-10-07, § IB, 11-23-10; Ord. No. H-18-02, § I, 2-27-18)

Sec. 36-53. R1, Single-family residential district.

Intent. The R1 single-family residential district is hereby established to provide for a principal land use of single-family dwellings and to accommodate existing two-family dwellings within the city, along with other associated uses and facilities that serve residents in the districts. More specifically, the intent of these districts is to:

(1) Encourage the construction of and the continued use of single-family dwellings;

(2) Prohibit any other use which would substantially interfere with development or maintenance of single-family dwellings in the districts;

(3) Preserve the balance between single-family and two-family housing stock by allowing two-family dwelling units on only those lots on which a two-family dwelling exists as of the date of adoption of this chapter;

(4) Encourage the design and maintenance of two-family dwelling units to be consistent with the surrounding single-family homes;

(5) Encourage the discontinuance of existing uses that would not be permitted as new uses in the districts under the provisions of this chapter;

(6) Prohibit any other land use which would substantially interfere with development or maintenance of existing residences in the districts;

(7) Discourage any land use which would generate traffic on minor or local streets, other than normal traffic to serve the residences on those streets; and

(8) Discourage any use which, due to its character or size, would create requirements and costs for public services such as fire and police protection, water supply, and sewerage substantially in excess of such requirements and costs if the district were developed solely for single-family dwellings.

(Ord. No. H-07-01, § 3.103, 7-24-07)

Sec. 36-54. RM, Multiple dwelling residential district.

(a) *Intent.* The multiple dwelling residential district, designated RM, is hereby established to provide for a district which permits the residential use of land with various types of multiple dwellings and related uses. Various types and sizes of residential accommodations, for ownership or rental, are permitted in this district, with the intent of meeting the needs of diverse age and family groups in the community without over-burdening existing community facilities, utilities, or services.

(b) *Guidelines.* Uses in the RM district should be located near streets with adequate planned capacity to accommodate the traffic volumes typically generated by higher-density development, and shall be adequately served by public water, sanitary sewer, and other appropriate utilities and services. Development in this district shall be subject to appropriate design, density, and development standards (including bulk, setback, and separation standards and provisions for sufficient light, air, privacy, and recreation areas) that are intended to prevent congestion on public streets, reduce hazards to life and property, provide adequate recreation areas and basic amenities, and ensure compatibility with adjacent single-family areas.

(Ord. No. H-07-01, § 3.104, 7-24-07)

Sec. 36-55. MHP, Mobile home park district.

(a) *Intent.* The mobile home park district, designated MHP, is hereby established to provide for the location and regulation of mobile home parks, as defined by the Mobile Home Commission Act (PA 96 of 1987, as amended), the Manufactured Housing Commission General Rules, and section 36-37.

(1) *Location.* In accordance with the purpose of this district, mobile home parks shall be located in areas where they will be compatible with adjacent land uses.

(2) *Additional purposes.* Further, this district is intended to meet the needs of the different age and family groups in the community, prevent congestion on the public streets, minimize hazards to life and property, and ensure sufficient provisions for light, air, privacy, recreation areas, and basic amenities to serve the residents of the district.

(b) *Regulations.* The regulations and rules established by the Mobile Home Commission Act, PA 96 of 1987 (as amended), and the manufactured housing commission govern all mobile home parks. Where regulations in this article and ordinance exceed the state law or general rules, they are intended to promote the health, safety, and welfare of the city's residents, and to ensure that mobile home parks are developed and maintained in a manner equivalent to the standards established by this chapter for comparable residential developments in the city.

(Ord. No. H-07-01, § 3.105, 7-24-07)

Sec. 36-56. C1, neighborhood business district.

(a) *Intent.* The neighborhood business district, designated C1, is hereby established to provide for local service and convenience shopping facilities to meet the day-to-day needs of persons residing in nearby residential areas. The further intent is to encourage the concentration of local business areas in locations proposed in the comprehensive development plan to the mutual advantage of both consumers and merchants, and thereby promote the best use of land at certain strategic locations and avoid the continuance of encouraging marginal strip business development along major streets.

(b) *Prohibitions.* In order to promote neighborhood-scale business development so far as is appropriate in each area, uses are prohibited in the C1 district which would create hazards, offensive and loud noises, vibration,

smoke, glare, heavy truck traffic, or late hours of operation. Unless otherwise specified, automotive-related services and other uses that would typically hinder pedestrian circulation or disrupt the functioning of this district shall also be prohibited.

(Ord. No. H-07-01, § 3.106, 7-24-07)

Sec. 36-57. C2, General business district.

Intent. The general business district, designated C2, is hereby established to provide for a wider range of business and entertainment activities than is permitted in the neighborhood business district or commercial-residential mixed use district. Uses in the C2 district would include those types of businesses and services typically found in shopping centers and at the junction of principal streets. Such uses generate larger volumes of vehicular traffic and typically require greater off-street parking and loading areas. Careful planning is required to integrate general business districts with adjacent areas of less-intensive uses.

(Ord. No. H-07-01, § 3.107, 7-24-07)

Sec. 36-58. C3, Commercial use district.

Intent. The commercial use district, designated C3, is hereby established to provide for a wide range of commercial, office, service, and entertainment activities. Uses in the C3 district include those types of businesses typically found along major arterial streets. Such uses cater to the needs of the community rather than the neighborhood and typically require greater off-street parking and loading areas. The C3 district also reflects the broad range of uses that currently exist along the city's major arterials.

(Ord. No. H-10-07, § IC, 11-23-10)

Sec. 36-59. CX, Commercial-residential mixed use district.

(a) *Intent.* The commercial-residential mixed use district, designated CX, is hereby established to encourage an appropriate combination of small-scale commercial uses, including office uses, and complementary residential uses designed to promote physical activity, alternative transportation, and greater social interaction. More specifically, the intent of the CX district is to:

(1) Encourage and direct development within the boundaries of the commercial-residential mixed use district and implement the policies for the mixed-use retail residential land use classification in the City of Dearborn Heights Master Plan;

(2) Encourage residential and nonresidential uses that are compatible in scale with adjacent residential neighborhoods;

(3) Allow flexibility in development standards to recognize the challenge of developing small-scale mixed-use buildings that are a similar scale to surrounding residential development;

(4) Encourage development that exhibits the physical design characteristics of pedestrian-oriented, storefront-style shopping streets;

(5) Minimize the adverse effects of nonresidential traffic on the adjacent residential neighborhood;

(6) Permit the development and redevelopment of large-scale parcels with a mix of commercial and residential uses incorporating design amenities that provide equal accommodations for pedestrians and motorists; and

(7) Limit the size of any single commercial retail use and provide for creative facade designs that reflect a more village center feel over that of a shopping center, thereby contributing to a vibrant pedestrian environment.

(b) *Prohibitions.* In light of the inclusion of residential uses in the CX district, uses are prohibited which would create hazards, offensive and loud noises, vibration, smoke, glare, or heavy truck traffic. Unless otherwise specified, automotive-related services and other uses that would typically hinder pedestrian circulation or disrupt the functioning of this district shall also be prohibited.

(Ord. No. H-07-01, § 3.108, 7-24-07; Ord. No. H-10-07, § IC, 11-23-10)

Sec. 36-60. O, Office district.

Intent. The office district, designated O, is hereby established to provide for a district intended to permit those office and restricted business uses which will:

(1) Provide opportunities for local employment close to residential areas, thus reducing travel to and from work;

(2) Provide clean, modern office buildings in landscaped settings;

(3) Provide, when adjacent to residential areas, appropriate districts for uses which do not generate large volumes of traffic, traffic congestion, or parking problems; and

(4) Promote the most desirable use of land in accordance with the comprehensive development plan.

(Ord. No. H-07-01, § 3.109, 7-24-07; Ord. No. H-10-07, § IC, 11-23-10)

Sec. 36-61. M1, Light industrial district.

(a) *Intent.* The light industrial district, designated M1, is hereby established to permit certain industries which are of a light manufacturing, research, warehousing, or wholesaling character to locate within planned areas of the city. So that such uses may be integrated with surrounding commercial and residential uses, limitations are placed upon the degree of noise, smoke, glare, waste, and other features of industrial operations so as to avoid adverse effects. It is further intended that these light industrial uses act as a transition between heavier industrial uses and non-industrial uses. Uses in the M1 district do not necessarily need access to railroads or major utility facilities.

(b) *Industrial activity statement.* Any new industrial business in the city shall submit a complete, signed industrial activity statement, according to the provisions of section 36-342, Industrial activity statement.

(Ord. No. H-07-01, § 3.110, 7-24-07; Ord. No. H-10-07, § IC, 11-23-10)

Sec. 36-62. M2, Medium industrial district.

(a) *Intent.* The medium industrial district, designated M2, is hereby established to permit certain industries to locate in desirable areas of the city, based upon the comprehensive development plan. The intent of the medium industrial district is to promote the creation of high-quality industrial, research, and manufacturing jobs, and permit large-scale or specialized operations requiring proximity to rail and/or major roads and needing special sites, utilities, or public services. Reasonable regulations apply to uses in this district, so as to permit the location of industries which will not cause adverse effects on residential and commercial areas in the city.

(b) *Prohibitions.* To meet the purpose and intent of the M2 district, certain land uses are prohibited, including, but not limited to:

(1) Uses that would result in an excessive or unusual danger of fire, explosion, toxicity, or exposure to radiation;

(2) Uses that create unusually noxious, offensive, unhealthy, or harmful odors, fumes, dust, smoke, light, waste, noise, or vibration; and

(3) Any residential uses.

(c) *Industrial activity statement.* Any new industrial business in the city shall submit a complete, signed industrial activity statement, according to the provisions of section 36-342, Industrial activity statement.

(Ord. No. H-07-01, § 3.111, 7-24-07; Ord. No. H-10-07, § IC, 11-23-10)

Sec. 36-63. MX, Industrial-commercial mixed use district.

(a) *Intent.* The industrial-commercial mixed use district, designated MX, is hereby established to encourage an appropriate combination of low-impact industrial activities, professional offices, and complementary business and service uses. More specifically, the intent of this district is to:

(1) Encourage and direct development within the boundaries of the industrial-commercial mixed use district.

(2) Minimize the adverse effects of nonresidential traffic on the adjacent residential neighborhood.

(3) Permit the development of employment opportunities close to residential areas, thus reducing travel to and from work;

(4) Provide for orderly, planned development of modern office and industrial manufacturing buildings in landscaped settings which will provide for uses which are generally compatible with or which may be safely and aesthetically located in proximity to commercial and residential uses; and

(5) Limit the degree of noise, smoke, glare, waste, and other undesirable features of industrial operations so as to provide for a better integration of industrial and commercial uses.

(b) *Industrial activity statement.* Any new industrial business in the city shall submit a complete, signed industrial activity statement, according to the provisions of section 36-342, Industrial activity statement.

(Ord. No. H-07-01, § 3.112, 7-24-07; Ord. No. H-10-07, § IC, 11-23-10)

Secs. 36-64—36-75. Reserved.

DIVISION 2. GENERAL STANDARDS

Sec. 36-76. Principal uses and special uses.

In all districts, no structure or land shall be used or occupied except in conformance with section 36-93, Table of permitted uses by district, and as otherwise provided for in this chapter. Uses subject to special conditions may be permitted in accordance with section 36-93, Table of permitted uses by district, subject to a public hearing and approval by the planning commission in accordance with the procedures and conditions defined in division 3, Special approval uses. Uses for enterprises or purposes that are contrary to federal, state or local laws or ordinances are prohibited.

(Ord. No. H-07-01, § 3.201, 7-24-07; Ord. No. H-11-01, § 1, 1-11-11)

Sec. 36-77. Prohibited uses.

(a) *Generally.* Uses that are not specifically listed as a principal, special, or accessory use permitted by this chapter in a zoning district, or otherwise determined to be similar to a listed and permitted use, shall be prohibited in the district. Uses for enterprises or purposes that are contrary to federal, state or local laws or ordinances are prohibited in all districts.

(b) *Michigan Medical Marijuana Act Uses.* Uses for enterprises or purposes that are permitted under the Michigan Medical Marijuana Act, MCL 333.26421 et seq., are only prohibited under this section if they are contrary to federal laws or ordinances to the extent that there is "a positive conflict" between the Michigan Medical Marijuana Act and federal laws or ordinances. For purposes of this section, the determination of whether "a positive conflict" exists between the Michigan Medical Marijuana Act and federal laws or ordinances shall be made based on the Michigan Supreme Court's opinion in Ter Beek v. City of Wyoming or any other controlling federal or Michigan court decision arising after it.

(Ord. No. H-07-01, § 3.202, 7-24-07; Ord. No. H-11-01, § 1, 1-11-11; Ord. No. H-14-04, § I, 5-13-14)

Sec. 37-78. Design and development requirements.

All uses shall comply with any applicable requirements of article VI, Use Standards, and all other applicable provisions of this chapter and other City Codes and Ordinances. No structure shall be erected, reconstructed, altered, or enlarged, nor shall permits or certificates of occupancy be issued, except in conformance with this chapter and other City Codes and Ordinances.

(Ord. No. H-07-01, § 3.203, 7-24-07)

Sec. 36-79. Street, alley, and railroad rights-of-way.

All streets, alleys, and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such streets, alleys, or railroad rights-of-way. Where the centerline of a street or alley serves as a district boundary, the zoning of such street or alley, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.

(Ord. No. H-07-01, § 3.204, 7-24-07)

Sec. 36-80. Zoning of vacated areas.

Any street, alley, railroad right-of-way or other public way or portion thereof within the city not otherwise classified within the boundaries of a zoning district on the official zoning map shall, upon vacation, automatically be classified in the same zoning district as the parcel(s) to which it attaches. ;hn0;7 (Ord. No. H-07-01, § 3.205, 7-24-07)

Secs. 36-81—36-90. Reserved.

ARTICLE IV. LAND USE TABLE

Sec. 36-91. Key designations in land use table.

(a) The symbols below, as used in section 36-93, Table of Permitted Uses by District, have the following meanings:

P	Use permitted by right in a zoning district;rr;
S	Use permitted after special approval (See Section 36-511)
A	Use permitted only in conjunction with a primary permitted or special use
R1	Single-family Residential District
RM	Multiple Dwelling Residential District
MHP	Mobile Home Park District
CX	Commercial-Residential Mixed Use District
C1	Neighborhood Business District
C2	General Business District
C3	Commercial Use District
O	Office District
MX	Industrial-Commercial Mixed Use District
M1	Light Industrial District
M2	Medium Industrial District
§	Section

(b) *NAICS Coding.* The North American Industrial Classification System (NAICS), as maintained by the U.S. Census Bureau, is used in this section to clarify specific land uses permitted within a district. A full NAICS code consists of six (6) digits describing a hierarchy of related industries (e.g., 488490, Truck terminals, and 488111, Air traffic control, are both contained under 488, Support activities for transportation, which is part of industry sector 48, Transportation). For codes listed herein that are shorter than six (6) digits, all sub-categories are included in the land use (e.g., 315, Apparel manufacturing, includes 3151, Apparel knitting mills, and 315292, Fur and leather apparel manufacturing).

(1) *Conflict.* If any definition under NAICS conflicts with this zoning ordinance, the definition as used in this chapter shall control.

(Ord. No. H-07-01, § 4.01, 7-24-07; Ord. No. H-10-07, § IIA, 11-23-10)

Sec. 36-92. Permitted uses.

(a) [Reserved.]

(b) *Use groups.* The permitted uses of land in section 36-93, Table of Permitted Uses by District, have been organized, for ease of use and convenience, into use groups based upon certain shared characteristics. These use groups are described as such:

(1) *Residential uses.* These uses primarily involve housing of various types and densities, and associated uses typically found in a residential neighborhood.

(2) *Office, service, and community uses.* Community uses are public-owned or operated uses; uses of a not-for-profit nature; uses that involve benefits or services generally provided to a significant portion of the population; or uses that serve as focal or gathering points for the community. Office or service uses are privately owned or operated uses of a for-profit nature, such as personal service establishments, medical and professional offices, workshops and studios, and similar associated uses.

(3) *Commercial uses.* These are uses of a generally for-profit nature and may include retail sales, food service, entertainment, repair services, and similar associated uses.

(4) *Industrial, research, and laboratory uses.* These are uses that are generally of a light manufacturing, research, warehousing, or wholesaling character, or that involve compounding, processing, packaging, assembly, storage, or treatment of products or materials.

(5) *Other uses.* These are uses that, because of unusual character, intensity, or nuisance potential, do not fit well into the preceding use groups.

(c) *Uses not cited.* Uses not listed in any district shall be evaluated under the provisions of section 36-292.

(Ord. No. H-07-01, § 4.02, 7-24-07)

Sec. 36-93. Table of permitted uses by district.

Key to Symbols		**NAICS Code (§4.01B)**	**Zoning Districts**											**Use Standards**
P	Principal Use		R1	RM	MHP	CX	C1	C2	C3	O	MX	M1	M2	
S	Special Use													
A	Accessory Use													
	Prohibited Use													
RESIDENTIAL USES														
Accessory dwelling			S	S		P	A	A	A	A				36-141
Community garage or carport				A										
Home occupations listed in Section 36-143B			A	A	A	A								36-143
Home occupations not listed in Section 36-143B			S	S	S	S								36-143
Maintenance and/or management buildings				A	A									
Mobile home parks					P									36-145
Multiple-family dwellings			S	P		P								36-146, 36-108
Senior citizen housing			S	P	S	S	S	S	S	S				36-148
Single-family detached dwellings			P	P										36-148

State-licensed residential facilities (seven or more residents)			S										35-150
State-licensed residential facilities (six or fewer residents)		P	P		S								36-150
Two-family dwellings		S	P		S								36-149
OFFICE, SERVICE, AND COMMERCIAL USES													
Adult education facilities (non-profit)		S	S	S	S	S	S	S	S				
Athletic or community centers (non-profit)		S	S	S	S	S	S	P	S	S	S	S	
Amusement arcades					S	S	S	P	S	S	S	S	36-161
Automobile dealerships							S	S	S	P	P	P	36-162 36-169
Automobile detailing shop							S	P		P	P	P	36-162 36-169
Automobile liveries and rental						S	P	P	P	P	P	P	36-162 36-169
Automotive repair garage, major repair							S	P		P	P	P	36-184
Automotive repair garage, minor repair					S	S	P	P		P	P	P	36-184
Banks and financial institutions					P	P	P	P	P	P			
Bakeries, retail	311811				P	P	P	P		P	P	P	36-171
Bed-and-breakfast inns		S	S		S								36-142
Big box retail stores (larger than 50,000 square feet)							S	P		S	S	S	36-164
Boarding house; lodging house			S		S								36-142 (F)—(K)

Bus stations					S		P	P		P	S	S	
Car wash						S	S	P		P	P	P	36-181
Catering or banquet halls					S	S	P	P		P	P	P	36-165
Cemeteries (excluding crematories)		S	S			S	S	S		S	S	S	36-211
Child care center			S		S	P	S	S	P	S			36-166
Churches and other places of worship		S	S		S	S	S	S	S	S	S	S	36-212
Crematories										S	S	S	
Drive-in business							S	S		S	S	S	36-182
Drive-through business					A		S	S		S	S	S	36-183
Dry cleaning plant							S	S		S	S	S	
Dry cleaning shop, no plant on premises					P	P	P	P	S	P			
Funeral homes or mortuaries (excluding crematories)						S	P	P		S	S	S	36-168
Gas station						S	S	S		S	S	S	36-184
Gas station with convenience store							S	S		S	S	S	36-184
Gas station with carry-out or fast-food restaurant							S	S	S	S	S	S	36-184
Hospitals		S	S		S	S	S	S	S	S	S	S	36-215
Hotels or motels					S		P	P	S	S	S	S	36-215
Laundromat (non-industrial)					S		P	P		P	P	P	36-144
Medical and dental offices		S	S		P	P	P	P	P	S	S	S	
Nurseries, tree and shrub; commercial greenhouses							S	S		S	P	P	36-167 36-169
Nursing homes			S		S		S	S	S	S	S	S	36-147
Open-air sales, excluding vehicles					S	S	S	S	S	S	S	S	36-169
Pawnshops or pawn brokers							S	S		S	S	S	

Personal care services, except tattoo parlors	8121				P	P	P	P	S	S			36-172
Private clubs; fraternal organizations; lodge halls					P	P	P	P	S	S	S	S	
Private parks and golf courses		S	S	S	S	S	S	S	S	S	S	S	36-213 36-214
Private recreation establishment, indoor					S	S	P	P	S	P	S		36-216
Private recreation establishment, outdoor						S	P	P		S	S		36-217
Professional offices					P	P	P	P	P	P			
Public buildings and uses, except public utility buildings		P	P	P	P	P	P	P	P	P	S	S	
Public utility buildings		S	S	S	S	S	P	P	S	P	P	P	36-218
Public, private, or parochial schools or colleges (non-profit)		P	P			S	S	S	S				
Restaurants, other than drive-in or drive-through					P	P	P	P	P	P	S	S	36-163 36-170
Retail uses not otherwise specified					P	P	P	S	S	S	A	A	36-191
Service station						S	S	S		S	S	S	36-184
Specialty construction trades	238						S	P		P	P	P	Outdoor storage is a separate use
Specialty schools, for-profit	6114—6117				P	P	P	P	P	S			
Tattoo parlors							S	S		S	S	S	
Theaters or assembly halls					S		P	P		S	S	S	36-219
Veterinary clinics							P	P		S	S	S	36-173

Wholesale sales							S	P		P	P	P	
INDUSTRIAL, RESEARCH, AND LABORATORY USES													
Alcoholic beverage manufacturing and bottling	31212 31213 31214									S		S	36-193
Apparel manufacturing	315									S	S	P	
Bulk fuel dealers	45431											S	36-192
Building services (pest control, janitorial, carpet cleaning)	5617						S	S		S	P	P	36-193
Cement, concrete, lime, and gypsum manufacturing	3273 3274									S	S	S	36-193
Chemical manufacturing	3251									S	S	S	36-193
Computer and electronic product manufacturing	334								A	P	P	P	
Cosmetics and toiletries manufacturing	32562									S	P	P	
Electrical equipment, appliance, and component manufacturing	335									S	S	P	
Fabricated metal product manufacturing	332									S	S	P	Excludes NAICS 3321 and 3327
Food manufacturing (except canning and meat processing)	311									S	P	P	Excludes NAICS 3116, 3117, and 31142
Forging and stamping	3321									S		S	36-193
Fruit and vegetable canning	31142									S		S	
Furniture and related product manufacturing	337									S	S	P	

Heavy truck repair garage										S	S	S	36-184
Junkyard; scrap yard										S		S	36-194
Leather and allied product manufacturing (except tanning)	316									S	S	P	
Linen and uniform supply; industrial laundries	81233									S	S	P	
Machine shops	33271									S	S	P	36-193
Machinery & equipment repair & maintenance (non-automotive)	8113									S	S	P	36-193
Machinery manufacturing	333									S		S	36-193
Medical and diagnostic laboratories	6215								S	P	P	P	
Miscellaneous manufacturing	339									S	P	P	
Motor vehicle manufacturing	3361 3362							P		P	P	P	36-193
Motor vehicle parts manufacturing (excluding tires)	3363									P	P	P	36-193
Motor vehicle towing	48841									S	S	P	
Outdoor storage of materials, or equipment, or vehicles							S	S		S	S	S	36-195
Paper products manufacturing (except conversion from scrap)	322									S		P	36-193
Petroleum bulk stations and terminals	42471									S		S	36-192 36-198

Pharmaceutical and medicine manufacturing	3254									S	P	P	
Plastics product manufacturing	3261									S	P	P	36-193
Primary metal manufacturing (includes smelting)	331									S		S	36-193
Printing, engraving, and bookbinding	323						S	S		S	P	P	36-193
Rubber product manufacturing (including tires)	3262									S		S	36-193
Scientific research and development services	5417								S	P	P	P	
Self-storage facilities; mini-warehouse facilities	531130						S	S		S	P	S	36-197
Soft drink manufacturing and bottling	31211									S	P	P	
Solid waste (non-hazardous) combustors and incinerators	562213									S		S	36-193
Tobacco product manufacturing	31222									S	P	P	
Tool-and-die shops; screw, nut, and bolt manufacturing	33272									S	S	P	
Truck stop	447190									S	S	S	36-184
Truck terminals	488490									S	S	S	36-198
Warehousing and storage, except bulk petroleum storage	493									P	P	P	36-192
Wood product manufacturing	321									S		S	36-193
OTHER USES													
Adult regulated uses										S		S	36-231

Essential services		S	S	S	S	S	S	S	S	S	S	S	36-271
Kennels, public/private kennels							S	S		S	S	P	36-232
Off-street parking		A	A	A	A	A	A	A	A	A	A	A	Article 9.00
Private swimming pool		P	A	S									36-217
Radio and television studios					S		P	P	S	P	P	P	36-336
Railroad yards and terminals										S		P	
Recreational vehicle storage yard										S	S	S	36-233
Temporary construction buildings		S	S	S	S	S	S	S	S	S	S	S	36-235
Wireless communications facilities						P	P	P		P	P	P	36-336

(Ord. No. H-07-01, § 4.03, 7-24-07; Ord. No. H-10-07, § IIB, 11-23-10; Ord. No. H-16-01, § 1A, 10-11-16; Ord. No. H-19-01, § 1, 1-22-19)

Sec. 36-94. Prohibited uses in all residential districts.

(a) *Large vehicles.* Vehicles in excess of eighteen (18) feet in length, including unoccupied house trailers, buses, converted buses, and boats, shall not be parked or stored in an open area of any residential zoning district for a period of more than forty-eight (48) hours, unless a permit has been issued by the building and engineering department. The permit shall be valid for a period not to exceed ten (10) consecutive days out of any ninety-day period and shall be conspicuously posted in the parked or stored vehicle.

(b) *Highway trailers.* Commercial highway trailers shall not be parked or stored on residentially-zoned property at any time.

(c) *Junk and scrap storage.* It shall be prohibited in all residentially-zoned districts to park or store wrecked or junked vehicles, power-driven construction equipment, used lumber or metal, or any other miscellaneous scrap or salvageable material, except in a completely enclosed, nonresidential structure.

(Ord. No. H-07-01, § 4.04, 7-24-07)

Sec. 36-95. Development standards.

(a) *Site plan review.* Site plan review and approval is required for all uses in any district, with the exception of single-family detached dwellings in the R1 or RM district, in accordance with article XIV, division 2, Site plan review.

(b) *Area, height, bulk, and placement requirements.* All structures and uses in any district are subject to the area, height, bulk, and placement requirements in article V, Schedule of Regulations.

(c) *Planned development.* The planned development option may be used to achieve the intent of any zoning district, in accordance with the guidelines of article XVI, Planned Developments. The use of the planned development option is strongly encouraged in the CX, commercial-residential mixed use district, and MX, industrial-commercial mixed use district.

(d) *General development standards.* All structures and uses in any district shall be subject to all applicable standards and requirements set forth in this chapter, including the following:

(1) Article V, Schedule of Regulations;

(2) Article VI, Use Standards;

(3) Article VII, General Provisions;

(4) Article IX, Parking, Loading, and Access Management;

(5) Article X, Landscaping and Screening; and

(6) Article XII, Exterior Lighting.

(Ord. No. H-07-01, § 4.05, 7-24-07)

Secs. 36-96—36-105. Reserved.

ARTICLE V. DISTRICT REGULATIONS

Sec. 36-106. Dimensional standards.

(a) All buildings, uses, and parcels of land shall comply with the dimensional standards set forth in the table below. Exceptions to the standards for each zoning district are provided in the supplemental standards sections following the table.

Zoning District	Lot Regulations				Minimum Setbacks (feet)				Structure Regulations		
	Minimum Lot Area	Minimum Lot Width	Maximum Gross Livable Area	Maximum Lot Coverage	Front Yard	Side Yard		Rear Yard	Maximum Building Height		Minimum Dwelling Unit Floor Area (sq. ft.)
						Least One	Total of Two		Stories	Feet	
R1 (§ 36-108)	See § 36-108		55% of lot area	35% of lot area	25	See § 36-108		35[1]	See § 36-108		1,144 1,200
RM (§ 36-109)	15,000 sq. ft.	—	—	30% of lot area	25	20	40	35	2½	35	See § 36-108
MHP (§ 36-110)	21,780 sq. ft.	—	—	—	See § 36-110				2½	35	—

CX (§ 36-111)	—	—	—	75% total surfaces if in flood hazard zone	0	0	0	25	3	35	See § 36-111
C1 (§ 36-112)	—	—	—		20	0	0	25	2	20	—
C2 (§ 36-113)	—	—	—		20	0	0	25	—	35	—
C3 (§ 36-114)	—	—	—		20	0	0	25	—	35	—
O (§ 36-115)	—	—	—	40% buildings	20	20	40	20	2	20	—
MX (§ 36-116)	—	—	—	40% buildings	20	20	40	20	—	35	Dwelling units prohibited
M1 (§ 36-117)	—	—	—	35% buildings	20	20	40	20	—	35	
M2 (§ 36-118)	—	—	—	35% buildings	30	30	60	30	—	45	

[1] See § 36-108 F.

(b) *General notes.* The following notes shall be applicable to all zoning districts.

(1) Solar collectors shall not be counted in the determination of maximum allowable lot coverage.

(2) Solar greenhouses and similar heat traps, which being habitable spaces integrated into the structure, shall be included in the calculation of lot coverage at one-third (⅓) of their actual square foot area, provided that not more than twenty (20) percent of their thermal mass, or transferring medium, is obscured from the radiant energy of the sun by other architectural elements.

(3) Concrete flatwork, pavers or other impervious surfaces may not exceed twenty-five (25) percent of the total site area, forty (40) percent of the front yard or twenty-five (25) percent of the rear yard, unless another standard is specified in the supplemental standards section following the table. Nonconforming lots of record regulated by 36-614, however, may not exceed twenty-five (25) percent of the total site area, fifty (50) percent of the front yard or twenty-five (25) percent of the rear yard coverage by concrete flatwork, pavers or other impervious surface. No concrete flatwork, pavers or other impervious surface may be installed over any utility easement or within two feet of a property line. The remainder of the front yard shall be grass area(s) and shall be planted with sod and/or grass seed. Well-maintained ornamental flowerbeds are permitted as long as they are organized and aesthetically in harmony with the neighborhood. A front yard that consists of seventy-five (75) percent or more of unorganized wildflowers and/or freely growing/overgrown perennial flowers is prohibited.

(Ord. No. H-07-01, § 5.01, 7-24-07; Ord. No. H-09-03, § I, 4-28-09; Ord. No. H-10-07, § IIIA, 11-23-10)

Sec. 36-107. Reserved.

Sec. 36-108. R1, Single-family residential district supplemental standards.

(a) *Lot width.*

(1) Any existing lot created prior to the effective date of this chapter shall be considered a buildable lot in the R1 district provided the lot width is equal to or greater than the predominant (most commonly occurring) lot width of the lots on both sides of the street between the two (2) closest intersecting streets or within eight hundred (800) feet, which ever is less.

(2) Any lot created after the effective date of this chapter located in a subdivision that was established prior to the effective date of this chapter shall conform to the predominant (most commonly occurring) lot width of the lots on both sides of the street between the two (2) closest intersecting streets or within eight hundred (800) feet, which ever is less.

(3) Any lot in a residential development (site condominium, subdivision, etc.) created after the effective date of this chapter shall have a minimum lot width of sixty (60) feet.

(b) *Lot area.*

(1) Any existing lot created prior to the effective date of this chapter shall be considered a buildable lot in the R1 district provided the lot area is equal to or greater than the predominant (most commonly occurring) lot area of the lots on the same side of the street between the two (2) closest intersecting streets, or within eight hundred (800) feet, which ever is less.

(2) Any lot created after the effective date of this chapter located in a subdivision that was established prior to the effective date of this chapter shall conform to the predominant (most commonly occurring) lot area of the lots on both sides of the street between the two (2) closest intersecting streets or within eight hundred (800) feet, which ever is less.

(3) Any lot in a residential development (site condominium, subdivision, etc.) created after the effective date of this chapter shall have a minimum lot area of six thousand (6,000) square feet.

(c) *Maximum gross livable area.* For all lots in the R1 district, the maximum gross livable area of all structures shall be fifty-five (55) percent of the total lot area. Maximum gross livable area is defined as the total floor area of all inhabited portions of all structures on a lot, including upper floors.

(d) *Front yards.* In cases where twenty-five (25) percent or more of the frontage on the same side of the street between two (2) intersecting streets has been built upon, the minimum front yard shall be established by using the average depth of the front yards provided on the lots built upon.

(e) *Side yards.*

(1) The total combined side yard required shall be thirty (30) percent of the lot width. The least required side yard shall be ten (10) percent of the lot width.

(2) On lots larger than sixty (60) feet wide, the least required side yard shall be six (6) feet and the combined total shall be not less than eighteen (18) feet.

(3) On each side of a school, church, or other permitted use other than a single-family residence, a minimum side yard of twenty-five (25) feet shall be provided on both sides of the nonresidential structure.

(4) The minimum side yard setback of ten (10) percent of the lot width shall not be located adjacent to the minimum side yard setback of an adjacent lot. The building official may allow modifications from this requirement based on existing site conditions.

(f) *Rear yards.* In cases where the lot depth is one hundred twenty (120) feet or less, the minimum rear yard setback shall be thirty (30) feet.

(g) *Corner lots.*

(1) *Lot width.* All corner lots in residential projects developed after the effective date of this chapter shall have a minimum width of sixty-five (65) feet in all new residential development.

(2) *Side yard setbacks.* On corner lots in residential projects developed after the effective date of this chapter, there shall be maintained along the side yard abutting a street a minimum setback equivalent to the average setback for all structures and accessory structures on the same side of the street between two (2) intersecting streets in all new residential development.

(h) *Maximum building height.* The building height of the principal structure located on a lot that is less than sixty (60) feet wide in the R1 district shall not exceed thirty (30) feet. The building height of the principal structure located on a lot that is sixty (60) feet wide or greater in the R1 district shall not exceed thirty-five (35) feet.

(i) *Minimum floor area per dwelling unit.* The minimum floor area shall not include basements, porches, attached garages, or utility rooms.

(j) *Senior citizen housing.* (See also section 36-148, Senior citizen housing.)

(1) For senior citizen housing units, there shall be provided three thousand (3,000) square feet of lot area per unit.

(2) Minimum side yard setbacks for senior citizen housing units shall be twenty (20) feet on each side.

(3) Minimum usable floor area per dwelling unit for senior citizen housing developments in any zoning district shall be at least:

a. Five hundred (500) square feet for a one-bedroom unit, and

b. Seven hundred fifty (750) square feet for a two-bedroom unit.

(k) *Multiple-family dwellings in single-family residential districts.*

(1) *Intent.* It is a goal of the city to provide for the development of a broad range of housing types. To accomplish this, limited types of multiple-family housing (e.g., townhouses) may be permitted on the periphery of traditional single-family neighborhoods, subject to planning commission approval as provided for in article XIV, division 3, Special approval.

(2) *Dimensional standards.* Setbacks, building separation, and minimum floor area shall be as required for a similar use in the RM district.

(3) *Density.* The overall density shall be no greater than that permitted for detached residential uses in the same district.

(4) *Parking.* Adequate off-street parking for multiple-family dwellings shall be provided per article IX, Parking, Loading, and Access Management. If the required parking is to be provided in enclosed garages, garage doors shall not be located on any facade that fronts on a public street.

(Ord. No. H-07-01, § 5.03, 7-24-07; Ord. No. H-08-02, § 1A, 3-25-08; Ord. No. H-10-07, § IIIB, 11-23-10)

Sec. 36-109. RM, Multiple dwelling residential district supplemental standards.

(a) *Front yards.* In cases where twenty-five (25) percent or more of the frontage in any one (1) block between two (2) adjacent streets has been built upon, the minimum front yard shall be established by using the average depth of the front yards provided on the lots built upon.

(b) *Side yards.* For any building in the RM district that has a length, parallel to the side lot line, greater than forty (40) feet, the minimum side setback shall be increased by one (1) foot for every ten (10) feet or portion thereof of additional building length.

(c) *Rear yards.* For any lot of record in the RM district that has a depth of less than one hundred (100) feet, the minimum rear setback may be reduced by the difference between the lot depth and one hundred (100) feet.

(d) *Detached dwellings.* For any single-family or two-family dwelling in the RM district, all dimensional standards shall be as required for a similar use in the R1 zoning district.

(e) *Residential density.* The minimum lot area per dwelling unit for any attached residential use in the RM district shall be as follows:

(1) Efficiency units—Two thousand (2,000) square feet.

(2) One-bedroom units—Two thousand (2,000) square feet.

(3) Two-bedroom units—Three thousand (3,000) square feet.

(4) Three-bedroom units—Four thousand (4,000) square feet.

(5) Units with more than three (3) bedrooms—Four thousand (4,000) square feet plus five hundred (500) square feet for each additional bedroom.

(f) *Minimum building separation.* The minimum horizontal distance between any two (2) residential buildings in the RM district shall be as follows:

(1) *Front to front:* Thirty (30) feet for single-story buildings, sixty (60) feet for taller buildings.

(2) *Front to rear:* Thirty (30) feet for single-story buildings, sixty (60) feet for taller buildings.

(3) *Rear to rear:* Thirty (30) feet for single-story buildings, sixty (60) feet for taller buildings.

(4) *Side to side:* Twenty (20) feet.

(5) *Front or rear to side:* Thirty (30) feet.

(g) *Corner lots.* On corner lots in the RM district, there shall be maintained along each street frontage a setback equivalent to the required front yard setback for all structures and accessory structures.

(h) *Minimum floor area per dwelling unit.*

(1) The minimum floor area shall not include basements, porches, balconies, stairwells, attached garages, or utility rooms.

(2) The minimum floor area per dwelling unit for detached single-family or two-family residential uses in the RM district shall be the minimum floor area required for similar uses in the R1-60 district.

(3) The minimum floor area per dwelling unit for any attached residential use in the RM district shall be as follows:

a. Efficiency units—Three hundred fifty (350) square feet.

b. One-bedroom units—Six hundred (600) square feet.

c. Two-bedroom units—Eight hundred (800) square feet.

d. Three-bedroom units—One thousand (1,000) square feet.

e. Units with more than three (3) bedrooms—One thousand (1,000) square feet plus one hundred (100) square feet for each additional bedroom.

(i) *Senior citizen housing.* (See also section 36-148, Senior citizen housing)

(1) For senior citizen housing units in the RM district, there shall be provided one thousand five hundred (1,500) square feet of lot area per unit.

(2) Maximum lot coverage for senior citizen housing developments in the RM district shall be forty (40) percent.

(3) Minimum usable floor area per dwelling unit for senior citizen housing developments in any zoning district shall be at least:

a. Five hundred (500) square feet for a one-bedroom unit, and

b. Seven hundred fifty (750) square feet for a two-bedroom unit.

(Ord. No. H-07-01, § 5.04, 7-24-07)

Sec. 36-110. MHP, Mobile home park district supplemental standards.

(a) *Setbacks.* No mobile home, permanent building or facility, or other structure shall be located closer than ten (10) feet from any property boundary line of a mobile home park, nor closer than fifty (50) feet from any public right-of-way if such serves as a boundary line.

(b) *Building height.* The height of any storage or service building shall not exceed fifteen (15) feet.

(c) *Minimum building separation.* No mobile home shall be closer than:

(1) Twenty (20) feet from any other mobile home;

(2) Fifteen (15) feet from any other mobile home, if located parallel to an internal road;

(3) Ten (10) feet from any attached or detached accessory structure;

(4) Fifty (50) feet from any permanent building;

(5) One hundred (100) feet from any baseball, softball, or similar recreational field;

(6) Twenty-five (25) feet from the fence of a swimming pool;

(7) Seven (7) feet from the edge of the back of the curb or the edge of an internal road paving surface;

(8) Seven (7) feet from a parking space on an adjacent home site or parking bay off a home site;

(9) Seven (7) feet from any sidewalk or bike path; and

(10) Twenty-five (25) feet from any lake, waterway, watercourse, wetland, or floodplain.

(Ord. No. H-07-01, § 5.05, 7-24-07)

Sec. 36-111 CX, Commercial-residential mixed use district supplemental standards.

(a) *Front yards.*

(1) *Residential uses.* For any building in the CX district which does not contain a commercial use, the minimum front setback shall be ten (10) feet.

(2) *Maximum setback.* The maximum setback for any building shall be the greater of ten (10) feet or the average depth of front setbacks of developed lots on the block.

(3) *Parking restricted.* No automobile or truck parking shall be permitted in the front yard of any lot in the CX district.

(b) *Side yards.*

(1) *Residential uses.* For any building in the CX district which does not contain a commercial use, the minimum side setback shall be ten (10) feet.

(2) *Adjacent to residential zoning.* When the side lot line of any lot in the CX district is directly adjacent to a lot zoned for residential use, the minimum side setback on such side shall be equal to the minimum side setback of the adjacent residential district.

(c) *Rear yards.* When the rear lot line of any lot in the CX district is directly adjacent to a dedicated alley, the minimum rear setback shall be zero.

(d) *Building height.* Any building in the CX district containing two (2) or more uses may be granted an additional height bonus up to a maximum total height of forty-five (45) feet.

(e) *Lot coverage.* The maximum coverage of all impervious surfaces, including parking areas, driveways, sidewalks, patios, and buildings, shall be seventy-five (75) percent of the total lot area for any lot in a flood hazard zone, as described in section 36-317, Flood hazard area overlay zone.

(f) *Minimum floor area per dwelling unit.*

(1) The minimum floor area shall not include basements, porches, balconies, stairwells, attached garages, or utility rooms.

(2) The minimum floor area per dwelling unit for detached residential uses in the CX district shall be the minimum floor area required for similar uses in the R1-60 district.

(3) The minimum floor area per dwelling unit for any attached residential use in the CX district shall be as follows:

a. Efficiency units—three hundred fifty (350) square feet.

b. One (1) bedroom units—six hundred (600) square feet.

c. Two (2) bedroom units—eight hundred (800) square feet.

d. Three (3) bedroom units—one thousand (1,000) square feet.

e. Units with more than three (3) bedrooms—one thousand (1,000) square feet plus one hundred (100) square feet for each additional bedroom.

(g) *Building size and placement.*

(1) All buildings and uses with the CX district shall comply with the dimensional standards of section 36-106. In the event of adjacent pre-existing setbacks or established building line, or the appropriate use of other design elements to define the streetwall, an adjustment may be allowed or required by the planning commission.

(2) All buildings shall have their principal pedestrian entrance facing the street.

(3) First-floor awnings may encroach upon a public sidewalk, but must avoid street trees; at least eight (8) feet of clearance above the sidewalk shall be provided; and awnings shall be set back a minimum of two (2) feet from the road curb.

(4) Upper-floor awnings shall be permitted only on vertically proportioned windows, provided that the awning is only the width of the window and projects outward from the building no more than three (3) feet.

(5) First floor space must be designed with a minimum clearance between the finished floor and the finished ceiling of twelve (12) feet, to allow the space to be converted to/from residential and nonresidential uses.

(h) *Access standards.*

(1) All principal buildings shall front on to a public right-of-way, dedicated public open space, or permanently preserved open space.

(2) The planning commission may require shared access or connections between adjacent developments as a means to limit conflict points along public roads.

(3) Street connections to adjacent parcels and the existing road network shall be provided where there is the possibility to create future street connections as determined by the planning commission. Road stubs for future connections shall be improved to the parcel or lot line.

(4) The proposed use shall be designed to minimize the impact of traffic generated by the use to the extent that is reasonably feasible, giving consideration to economic and site conditions. Consideration shall be given to the following as reviewed by the city staff, and/or the city's consultants:

a. Relationship between the proposed development and existing and proposed streets;

b. Estimated traffic generated by the proposed use;

c. Location and access to off-street parking; and,

d. Provisions for vehicular traffic.

(i) *Parking and loading standards.*

(1) Loading docks and service areas shall be permitted only within rear open space. Doors for access to interior loading docks and service areas shall not face a public or private street, but may face a public or private alley.

(2) Parking and loading shall be provided in accordance with article IX, provided that any modification to the requirements of said section are considered and permitted in accordance with section 36-370, Modification of standards.

(3) All parking facilities shall be screened in accordance with the provisions in subsection 36-392(f), Parking lot landscaping.

(j) *Architectural design review.* Architectural design is a key element in establishing a sense of place for a community. Buildings of high quality contribute to the attractiveness and economic well-being of a community, making it a better place to live and work. The community recognizes the importance of good architecture and its lasting impact.

(1) *Objective.* The objective of these design standards is to direct builders toward creating buildings of timeless character that are in harmony with the natural and built environment. This is a function of good architectural principles such as selecting durable materials, composing elevations using appropriate proportions, selecting harmonious colors, and combining all the architectural elements in a balanced composition.

(2) *Requirements.*

a. Building materials shall possess durability and aesthetic appeal.

b. A minimum of fifty (50) percent of that portion of the first floor facade of a building with a commercial use(s) on the first floor and that faces a public street, private street, public open space or permanently preserved open space shall contain clear glazing.

c. The building design shall include architectural features on the building facade that provide texture, rhythm, and ornament to a wall.

d. Colors shall be natural and neutral colors that are harmonious with both the natural and man-made environment. Stronger colors can be used as accents to provide visual interest to the facade.

e. The building design shall provide an interesting form to a building through manipulation of the building massing. This can be achieved through certain roof types, rooflines, and massing elements such as towers, cupolas, and stepping of the building form.

f. These architectural elements shall be arranged in a harmonious and balanced manner.

(Ord. No. H-07-01, § 5.06, 7-24-07; Ord. No. H-07-03, § 1A, 1-8-08; Ord. No. H-10-07, § IIIC, 11-23-10)

Sec. 36-112. C1, Neighborhood business district supplemental standards.

(a) *Front yards.* In cases where twenty-five (25) percent or more of the frontage in any one (1) block between two (2) adjacent streets has been built upon, the minimum front yard shall be established by using the average depth of the front yards provided on the lots built upon or twenty (20) feet whichever is less.

(b) *Side yards.* When the side lot line of any lot in the C1 district is directly adjacent to a lot zoned for residential use, the minimum side setback on such side shall be equal to the minimum side setback of the adjacent residential district.

(c) *Rear yards.* When the rear lot line of any lot in the C1 district is directly adjacent to a dedicated alley, the minimum rear setback shall be zero.

(d) *Lot coverage.* The maximum coverage of all impervious surfaces, including parking areas, driveways, sidewalks, patios, and buildings, shall be seventy-five (75) percent of the total lot area for any lot in a flood hazard zone, as described in section 36-317, Flood hazard area overlay zone.

(Ord. No. H-07-01, § 5.07, 7-24-07; Ord. No. H-07-03, § 1B, 1-8-08; Ord. No. H-10-07, § IIIC, 11-23-10)

Sec. 36-113. C2, General business district supplemental standards.

(a) *Front yards.* In cases where twenty-five (25) percent or more of the frontage in any one (1) block between two (2) adjacent streets has been built upon, the minimum front yard shall be established by using the average depth of the front yards provided on the lots built upon or twenty (20) feet whichever is less.

(b) *Side yards.* When the side lot line of any lot in the C2 district is directly adjacent to a lot zoned for residential use, the minimum side setback on such side shall be equal to the minimum side setback of the adjacent residential district.

(c) *Rear yards.* When the rear lot line of any lot in the C2 district is directly adjacent to a dedicated alley, the minimum rear setback shall be zero.

(d) *Lot coverage.* The maximum coverage of all impervious surfaces, including parking areas, driveways, sidewalks, patios, and buildings, shall be seventy-five (75) percent of the total lot area for any lot in a flood hazard zone, as described in section 36-317, Flood hazard area overlay zone.

(Ord. No. H-07-01, § 5.08, 7-24-07; Ord. No. H-10-07, § IIIC, 11-23-10)

Sec. 36-114. C3, Commercial use district supplemental standards.

(a) *Front yards.* In cases where twenty-five (25) percent or more of the frontage in any one (1) block between two (2) adjacent streets has been built upon, the minimum front yard shall be established by using the average depth of the front yards provided on the lots built upon or twenty (20) feet whichever is less.

(b) *Side yards.* When the side lot line of any lot in the C3 district is directly adjacent to a lot zoned for residential use, the minimum side setback on such side shall be equal to the minimum side setback of the adjacent residential district.

(c) *Rear yards.* When the rear lot line of any lot in the C3 district is directly adjacent to a dedicated alley, the minimum rear setback shall be zero.

(d) *Lot coverage.* The maximum coverage of all impervious surfaces, including parking areas, driveways, sidewalks, patios, and buildings, shall be seventy-five (75) percent of the total lot area for any lot in a flood hazard zone, as described in section 36-317, Flood hazard area overlay zone.

(Ord. No. H-07-01, § 5.09, 7-24-07; Ord. No. H-10-07, § IIIC, 11-23-10)

Sec. 36-115. O, Office district supplemental standards.

(a) *Side yards.* When the interior side lot line of any lot in the O district is directly adjacent to a lot zoned C1, C2, C3 or CX, the minimum interior side setback shall be zero.

(b) *Lot coverage.* The maximum coverage of all buildings and structures shall be forty (40) percent of the total lot area. The maximum coverage of all impervious surfaces, including parking areas, driveways, sidewalks, patios, and buildings, shall be seventy-five (75) percent of the total lot area for any lot in a flood hazard zone, as described in section 36-317, Flood hazard area overlay zone.

(Ord. No. H-07-01, § 5.10, 7-24-07; Ord. No. H-10-07, § IIIC, 11-23-10)

Sec. 36-116. MX, Industrial-commercial mixed use district supplemental standards.

(a) *Building height.* Any building in the MX district containing two (2) or more uses may be granted an additional height bonus up to a maximum total height of forty-five (45) feet.

(b) *Lot coverage.* The maximum coverage of all buildings and structures shall be forty (40) percent of the total lot area. The maximum coverage of all impervious surfaces, including parking areas, driveways, sidewalks, patios, and buildings, shall be seventy-five (75) percent of the total lot area for any lot in a flood hazard zone, as described in section 36-317, Flood hazard area overlay zone.

(c) *Building size and placement.* All buildings and uses with the MX district shall comply with the dimensional standards of section 36-106. Adjustments may be allowed or required by the planning commission.

(d) *Access standards.*

(1) All principal buildings shall front on to a public right-of-way, dedicated public open space, or permanently preserved open space.

(2) The planning commission may require shared access or connections between adjacent developments as a means to limit conflict points along public roads.

(3) Street connections to adjacent parcels and the existing road network shall be provided where there is the possibility to create future street connections as determined by the planning commission. Road stubs for future connections shall be improved to the parcel or lot line.

(4) The proposed use shall be designed to minimize the impact of traffic generated by the use to the extent that is reasonably feasible, giving consideration to economic and site conditions. Consideration shall be given to the following as reviewed by the city staff, and/or the city's consultants:

a. Relationship between the proposed development and existing and proposed streets;

b. Estimated traffic generated by the proposed use;

c. Location and access to off-street parking; and,

d. Provisions for vehicular traffic.

(e) *Parking and loading standards.*

(1) Loading docks and service areas shall be permitted only within rear open space. Doors for access to interior loading docks and service areas shall not face a public or private street, but may face a public or private alley.

(2) Parking and loading shall be provided in accordance with article IX, provided that any modification to the requirements of said section are considered and permitted in accordance with section 36-370, Modification of standards.

(3) All parking facilities shall be screened in accordance with the provisions in subsection 36-392(f), Parking lot landscaping.

(f) *Architectural design review.* Architectural design is a key element in establishing a sense of place for a community. Buildings of high quality contribute to the attractiveness and economic well-being of a community, making it a better place to live and work. The community recognizes the importance of good architecture and its lasting impact.

(1) *Objective.* The objective of these design standards is to direct builders toward creating buildings of timeless character that are in harmony with the natural and built environment. This is a function of good architectural principles such as selecting durable materials, composing elevations using appropriate proportions, selecting harmonious colors, and combining all the architectural elements in a balanced composition.

(2) *Requirements.*

a. Building materials shall possess durability and aesthetic appeal.

b. A minimum of fifty (50) percent of that portion of the first floor facade of a building with a commercial use(s) on the first floor and that faces a public street, private street, public open space or permanently preserved open space shall contain clear glazing.

c. The building design shall include architectural features on the building facade that provide texture, rhythm, and ornament to a wall.

d. Colors shall be natural and neutral colors that are harmonious with both the natural and man-made environment. Stronger colors can be used as accents to provide visual interest to the facade.

e. The building design shall provide an interesting form to a building through manipulation of the building massing. This can be achieved through certain roof types, rooflines, and massing elements such as towers, cupolas, and stepping of the building form.

f. These architectural elements shall be arranged in a harmonious and balanced manner.

(Ord. No. H-07-01, § 5.11, 7-24-07; Ord. No. H-10-07, § IIIC, 11-23-10)

Sec. 36-117. M1, Light industrial district supplemental standards.

(a) *Building height.* Height variances may be permitted subject to the provisions of this article, provided that for each ten-foot increase or portion thereof in building height, there shall be an increase of five (5) feet in the required minimum side setback.

(b) *Lot coverage.* The maximum coverage of all buildings and structures shall be forty (40) percent of the total lot area. The maximum coverage of all impervious surfaces, including parking areas, driveways, sidewalks, patios, and buildings, shall be seventy-five (75) percent of the total lot area for any lot in a flood hazard zone, as described in section 36-317, Flood hazard area overlay zone.

(Ord. No. H-07-01, § 5.12, 7-24-07; Ord. No. H-10-07, § IIIC, 11-23-10)

Sec. 36-118. M2, Medium industrial district supplemental standards.

(a) *Setback adjacent to residential zoning.* When the side or rear lot line of any lot in the M2 district is directly adjacent to a lot zoned for residential use, the minimum setback on such side or rear shall be fifty (50) feet.

(b) *Setback adjacent to railroad spur.* When the side or rear lot line of any lot in the M2 district is directly adjacent to a railroad spur, the required side or rear setback may be waived.

(c) *Building height.* Height variances may be permitted subject to the provisions of this article, provided that for each ten-foot increase or portion thereof in building height, there shall be an increase of five (5) feet in the required minimum side setback.

(d) *Lot coverage.* The maximum coverage of all buildings and structures shall be forty (40) percent of the total lot area. The maximum coverage of all impervious surfaces, including parking areas, driveways, sidewalks, patios, and buildings, shall be seventy-five (75) percent of the total lot area for any lot in a flood hazard zone, as described in section 36-317, Flood hazard area overlay zone.

(Ord. No. H-10-07, § IIIC, 11-23-10)

Secs. 36-119—36-130. Reserved.

ARTICLE VI. USE STANDARDS

Sec. 36-131. Intent and scope of regulations.

Each use listed in this article, whether permitted by right or subject to approval as a special land use, shall be subject to the site and use standards specified, in addition to applicable standards and requirements for the district where the use is located. These standards are intended to:

(1) Alleviate any adverse impacts of a use that is of an area, intensity or type unique or atypical for the district in which the use is allowed.

(2) Mitigate the impact of a use that possesses characteristics unique or atypical for the district in which the use is allowed.

(3) Ensure that such uses will be compatible with surrounding land uses.

(4) Promote the orderly development of the district and the city as a whole.

Conformance with these standards shall be subject to site plan review. Unless otherwise specified, each use listed in this article shall be subject to all applicable yard, bulk and other standards for the district in which the use is located.

(Ord. No. H-07-01, § 6.001, 7-24-07)

Sec. 36-132. Organization.

For the purposes of clarity and ease of use, the provisions of this article have been organized into the following divisions:

(1) Division 1—Residential uses

(2) Division 2—Commercial uses

(3) Division 3—Automobile-oriented uses

(4) Division 4—Industrial uses

(5) Division 5—Institutional and recreation uses

(6) Division 6—Other uses

(Ord. No. H-07-01, § 6.001, 7-24-07)

Secs. 36-133—36-140. Reserved.

DIVISION 1. RESIDENTIAL USES

Sec. 36-141. Accessory dwellings.

(a) *Intent.*

(1) It is the intent of this section to permit accessory dwellings within principal single-family dwellings in residential zoning districts to provide a variety of housing options in the city and accommodate the desire of some senior citizens, family groups, and other persons with special needs for private housing close to relatives or caregivers.

(2) It is further the intent of this section to permit accessory dwellings in commercial and office districts to provide additional housing options in the city and advance principles of mixed-use development in appropriate areas.

(3) In all districts, the standards of the section are intended to preserve the predominant character of each zoning district.

(b) *General standards.* The standards of this section are designed to prevent the undesirable proliferation of multiple-family buildings in predominantly single-family areas of the city, to preserve the single-family character and appearance of principal dwellings that may include an accessory dwelling, and to ensure that accessory dwellings in commercial and office areas are compatible with the primary commercial or office use of the building. Construction and alteration of an accessory dwelling shall be subject to the following standards:

(1) *Permit approval.* In addition to any special approval and building permit requirements, the creation or alteration of an accessory dwelling unit shall be subject to review and approval of a zoning compliance certificate per section 36-4, Zoning compliance certificate.

(2) *Plans.* The planning commission or building official shall require the submittal of floor plans, building elevation drawings, and a plot plan of the lot to verify conformance with the standards of this chapter.

(3) *Restrictions.* An accessory dwelling shall not be added to any residential structure housing two (2) or more families.

(c) *Dwellings units accessory to detached single-family dwellings.* The following shall apply to dwelling units accessory to detached single-family dwellings in the R1, single-family residential and RM, multiple dwelling residential districts:

(1) A maximum of one (1) accessory dwelling shall be permitted on a residential parcel.

(2) All accessory dwellings shall be located entirely within the principal residential structure on the parcel. Accessory dwellings shall be prohibited in any detached accessory structures.

(3) Accessory dwelling units shall have a minimum gross floor area of three hundred fifty (350) square feet, and shall not occupy more than thirty (30) percent of the principal building's gross floor area.

(4) The principal building on the parcel shall be the primary and permanent legal residence of the owner(s) of the property. A permitted accessory dwelling shall be clearly secondary to the use of the building as a single-family residence.

(5) The design of the accessory dwelling shall not detract from the character and appearance of the principal building in which it is located or of the surrounding neighborhood. Access to an accessory dwelling in a residential district shall be limited to a front entrance common with the principal building or a separate entrance door on the side or rear of the principal building. When viewed from the adjacent street right-of-way, it shall appear that only one (1) household occupies the site.

(6) In addition to required parking for the principal residence, one (1) additional off-street parking space shall be provided for the accessory dwelling. Parking for the accessory dwelling shall not be permitted in the front yard.

(d) *Dwelling units accessory to commercial or office uses.* The following shall apply to dwelling units accessory to permitted uses in the C1, neighborhood business, C2, general business, CX, commercial-residential mixed use district, and O, office districts:

(1) Accessory dwelling units shall be located within the principal building on the parcel and shall not be located on the ground floor or street level of the building. Private entrances, mailbox clusters, garages, and similar service areas for the accessory dwellings may be located on the ground floor or street level of the building.

(2) Each accessory dwelling unit shall have separate kitchen, bath, and toilet facilities and a private entrance. Where there is more than one (1) accessory dwelling unit in a building, such entrances may be provided from a common hallway.

(3) Accessory dwelling units shall have a minimum gross floor area as provided in subsection 36-109(h).

(4) In addition to required parking for the principal use on the parcel, one (1) additional off-street parking space shall be provided for each accessory dwelling. Parking for an accessory dwelling shall not be permitted in the front yard.

(Ord. No. H-07-01, § 6.101, 7-24-07)

Sec. 36-142. Bed and breakfast inns.

(a) *Accessory use.* The bed and breakfast inn operations shall be clearly incidental to the principal residence on the parcel. Accordingly, the bed and breakfast inn operations shall be confined to the single-family dwelling unit which is the principal dwelling on the site. Not more than twenty-five (25) percent of the total floor area of the dwelling unit shall be used for sleeping rooms connected with the bed and breakfast inn.

(b) *Principal residence.* The single-family dwelling unit on the parcel shall be the principal residence of the operator, and the operator shall live in the dwelling unit when the bed and breakfast inn is in operation.

(c) *Number of units.* No more than two (2) bed and breakfast sleeping rooms shall be established in a single dwelling unit.

(d) *Kitchen facilities.* There shall be no separate cooking facilities for the bed and breakfast inn, other than those that serve the principal residence. Food may be served only to those persons who rent a room in the bed and breakfast inn.

(e) *Length of stay.* Guests shall be restricted to overnight or weekly stays, and may stay no longer than sixty (60) days in any one (1) calendar year.

(f) *Screening.* Screening shall be provided between adjacent residences and any parking or outdoor eating area, in compliance with subsection 36-392(e), Screening.

(g) *Appearance.* The exterior of the principal residence shall remain unchanged. The use of exterior stairways to provide primary access to upper floor sleeping rooms shall be prohibited.

(h) *Additional signs prohibited.* Signage for the bed and breakfast inn shall be limited to signs permitted for residential uses, as described in chapter 26, Signs.

(i) *Parking.* Adequate off-street parking shall be provided in accordance with article IX, Parking, Loading, and Access Management. Parking for the bed and breakfast inn shall not be permitted in the front yard.

(j) *Building requirements.* A building used for bed and breakfast inn operations shall comply with the following minimum requirements:

(1) There shall be at least two (2) exits to the outdoors.

(2) Rooms used for sleeping shall have a minimum size of one hundred (100) square feet for two (2) occupants, plus an additional thirty (30) square feet for each additional occupant. Rooms shall be designed to accommodate no more than four (4) occupants.

(3) Each sleeping room shall be equipped with an individual, working smoke detector.

(k) *Approval.* Bed and breakfast inns shall be subject to site plan approval per article XIV, division 2, Site plan review. The site plan application shall include floor plans with the following additional information:

(1) Dimensions and floor areas of all rooms and areas to be used by guests (sleeping rooms, bathrooms, dining areas, etc.).

(2) Locations of required exits, emergency exit routes, tornado protection locations, and other emergency facilities and equipment, which shall be subject to review by the fire chief or designee.

(Ord. No. H-07-01, § 6.102, 7-24-07)

Sec. 36-143. Home occupation.

(a) *General standards.* Any home occupation shall be subject to the following:

(1) *Intensity of use.* Home occupations must be clearly incidental and secondary to the use of the dwelling as a residence. No more than fifteen (15) percent of the habitable floor area of each floor of the residence may be used for the home occupation. Habitable floor area of the residence does not include unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches. Home occupations may not utilize detached accessory buildings, except for incidental storage.

(2) *Customer or client visits.* A home occupation shall not generate more than ten (10) customer or client visits per day and more than thirty (30) customer or client visits per week. No more than two (2) customers or clients may be present at any given time.

(3) *Parking and deliveries.* Traffic generated by a home occupation shall not be greater in volume than that normally generated by a typical residence in the neighborhood. Delivery vehicles used to deliver goods to a home occupation are limited to automobiles and passenger vehicles, mail carriers, and express package carriers.

(4) *Hours of operation.* Customer or client visits, and deliveries associated with the home occupation, shall be prohibited between the hours of 8:00 p.m. and 8:00 a.m.

(5) *Additional signs prohibited.* Signage for the home occupation shall be limited to signs permitted for residential uses, as described in chapter 26, Signs.

(b) *Uses permitted accessory to residential use.* The following uses shall be permitted as home occupations, subject to all other provisions of this section:

(1) Home offices for such professionals as architects, doctors, brokers, engineers, insurance agents, lawyers, realtors, accountants, writers, salespersons and similar occupations.

(2) Workshops for tailors, dressmakers, milliners, and craft persons; including weaving, lapidary, jewelry making, cabinetry, and woodworking.

(3) Personal services, including barbershops, beauty parlors, manicure and pedicure shops, grooming, catering, and chauffeuring services.

(4) Repair services for watches and clocks, small appliances, bicycles, computers, electronic devices, and similar small devices.

(5) Tutoring, and studios for artists, sculptors, musicians, and photographers.

(6) Home occupations not specifically listed in this subsection may be permitted as a special use, subject to all provisions of this section and article XIV, division 3, Special approval uses.

(c) *Prohibited uses.* The following uses are expressly prohibited as a home occupation:

(1) Adult regulated uses, as defined in this chapter.

(2) Automobile-oriented uses, as defined in this chapter.

(3) Kennels, animal shelters, and veterinary clinics.

(4) Medical or dental clinics.

(5) Mortuaries and funeral homes.

(6) Restaurants, in general.

(7) Retail sales of merchandise, other than as an incidental use to the primary permitted home occupation.

(8) Uses similar to those listed in this subsection, or any use which would, in the determination of the city, result in a public nuisance.

(d) *Other prohibited activities.* Home occupations shall not include:

(1) Outdoor display or storage of materials, goods, supplies, or equipment used in the home occupation. No interior display shall be visible from the exterior of a home used for a home occupation.

(2) Machinery, equipment, or facilities not commonly incidental or accessory to a residential dwelling.

(3) Changes or alterations to the character or appearance of the residence, or other visible evidence of the conduct of such home occupation.

(4) Parking of vehicles on the site or within the street right-of-way in excess of the amount customarily incidental to a single-family dwelling.

(e) *Violations.* Failure to maintain a lawfully established home occupation in compliance with the standards of this section or any conditions of approval shall be a violation of this chapter. Failure by the operator to allow a zoning inspection or provide reasonable information to the city to verify compliance with this section shall be a violation of this chapter.

(Ord. No. H-07-01, § 6.103, 7-24-07)

Sec. 36-144. Hotels and motels.

(a) *Design.* Each rental unit in a hotel or motel shall contain at least a bedroom and bathroom. The minimum gross floor area of each unit shall be two hundred fifty (250) square feet.

(b) *Services.* A hotel or motel shall provide services customary to such facilities, including maid service, linen service, telephone and/or desk service, and the use of furniture.

(c) *Amenities.* A hotel shall provide at least one (1) of the following amenities:

(1) An attached dining room with seating capacity for at least twenty (20) occupants, serviced by a full service kitchen, or

(2) An unattached standard restaurant, as defined in this chapter, with seating capacity for not less than fifty (50) occupants, located on the same site as the hotel or on a site contiguous with the hotel and developed simultaneously or in advance of the hotel site.

(d) *Off-street parking.* Off-street parking shall be provided in accordance with article IX, Parking, loading, and access management.

(Ord. No. H-07-01, § 6.104, 7-24-07; Ord. No. H-13-04, § 1A, 10-8-13)

Sec. 36-145. Mobile home parks.

(a) *Plan review.* Pursuant to Section 11 of Michigan Public Act 96 of 1987, as amended, a preliminary plan for any mobile home park shall be submitted to the city for review by the planning commission. The preliminary plan shall include the location, layout, general design, and general description of the project. The preliminary plan shall not include detailed construction plans.

In preparing the preliminary plan and when reviewing the plan, the following procedures and requirements shall apply, except where said procedures and requirements are superseded by requirements in Public Act 96 of 1987, as amended, or the Mobile Home Commission Rules.

(1) *Application filing.* Any person requesting any action or review under the provisions of this chapter shall file an application on the forms provided by the city. The information required shall be typed or legibly written on the form or on separate sheets attached to the form.

(2) *Optional pre-filing conference.* Applicants may request to meet with city staff, including any consultants designated by the city, to preliminarily review applications prior to filing. Such pre-filing conferences are intended to assist the applicant and facilitate the future review and approval of the application. However, no suggestions, recommendations, or other comments made by city officials, staff, or consultants at such conferences shall constitute approval of any application.

(3) *Processing and review.* Applications accepted by the city shall be submitted to appropriate city staff and consultants for their written reviews and recommendations. The application shall be submitted along with all recommendations to the planning commission. Official receipt of the application is the time the complete plan arrives or is delivered to city hall.

The staff and consultants may advise and assist the applicant in meeting chapter requirements but shall have no power to approve or disapprove any application or in any way restrict an applicant's right to seek formal approval thereof.

(4) *Planning commission action.* The planning commission shall review all applications at a public meeting. The planning commission shall consider all recommendations of the staff and consultants. Pursuant to Section 11 of Public Act 96 of 1987, as amended, the planning commission shall take action on the preliminary plan within sixty (60) days after the city officially receives the plan. All applications that the planning commission has been charged with the authority to approve under the provisions of this chapter shall be approved, denied, or approved subject to conditions. The planning commission may table an application for further study or to obtain additional information, provided that final action is taken within the sixty-day review period.

(5) *Filing fees.* All applications shall be accompanied by a filing fee to cover the cost of processing and reviewing the application. The fee shall be established by resolution of the city council, in accordance with Section 406 of Public Act 110 of 2006, as amended. The filing fee and deposit shall be paid before the approval process begins. Upon notification of deficient payment of fees, administrative officials charged with enforcement of the chapter shall suspend further review of the application and shall deny any new permits related to the current application.

Any deposit toward the cost of review shall be credited against the expense to the city. Any portion of the deposit not needed to pay such expense shall be refunded without interest to the applicant within thirty (30) days of final action on the application.

A schedule of the current filing fees and deposit requirements is available in the office of the city clerk and the building department.

(6) *Disclosure of interest.* The full name, address, telephone number, and signature of the applicant shall be provided on the application.

If the application involves real property in the city the applicant must be the fee owner, or have identified legal interest in the property, or be an authorized agent of the fee owner. A change in ownership after the application is filed shall be disclosed prior to any public hearing or the final decision on the application.

a. *Required disclosure when applicant is not fee owner.* If the applicant is not the fee owner, the application should indicate interest of the applicant in the property, and the name and telephone number of all fee owners. An affidavit of the fee owner shall be filed with the application stating that the applicant has authority from the owner to make the application.

b. *Required disclosure when applicant is a corporation or partnership.* If the applicant or fee owner is a corporation, the name and addresses of the corporation officers and registered agent shall be provided, and if a partnership, the names and addresses of the partners shall be provided.

c. *Required disclosure when applicant or owner is a land trust.* If the applicant or fee owner is a trust or trustee thereof, the full name, address, telephone number, and extent of interest of each beneficiary must be provided.

(7) *Records.* The city shall keep accurate records of all decisions on all applications submitted pursuant to this chapter.

(b) *Minimum requirements.* Mobile home parks shall be subject to all the rules and requirements of the Mobile Home Commission Act (P.A. 96 of 1987, as amended), the Manufactured Housing Commission General Rules, applicable standards of this chapter, and the following minimum requirements:

(1) *Minimum mobile home site size.* Mobile home parks shall be developed with a minimum site size of five thousand five hundred (5,500) square feet. Individual sites may be reduced to as small as four thousand four hundred (4,400) square feet, provided that for every square foot of land gained through such reduction, at least an equal amount of land shall be dedicated as open space for the collective use and enjoyment of all manufactured housing park residents. This open space shall be in addition to the open space required under subsection (7), open space, below and the manufactured housing commission rules in effect at the time the proposal is submitted.

(2) *Roads.* Roads shall satisfy the minimum dimensional, design, and construction requirements in the Manufactured Housing Commission Rules, except as follows:

a. The main entrance to the park shall have access to a public thoroughfare or shall be connected to a paved public collector or arterial road (as defined in section 36-37 of this chapter) by a permanent easement which shall be recorded by the developers. Sole access to the park via an alley is prohibited.

b. All roads shall be hard-surfaced and may be constructed with curbs and gutters.

(3) *Parking.*

a. All mobile home sites shall be provided with two (2) parking spaces per Manufactured Housing Commission Rules.

b. In addition to required spaces for each mobile home site, a minimum of one (1) parking space for every three (3) mobile home sites shall be provided for visitor parking located convenient to the area served.

c. No unlicensed or inoperable vehicle of any type shall be parked in this district at any time except within a covered building.

(4) *Common storage areas.* Common areas for the storage of boats, motorcycles, recreation vehicles, and similar equipment may be provided in a mobile home park, but shall be limited to use only by residents of the mobile home park. If proposed, the location of such storage areas shall be shown on the preliminary site plan. No part of any such storage area shall be located in any required yard on the perimeter of the mobile home park. Such storage area shall be screened from view from adjacent residential properties with an opaque six-foot wooden fence, six-foot masonry wall with landscaping, or landscaped greenbelt. If a landscaped greenbelt is used, it shall consist of closely-spaced evergreen plantings (i.e., no farther than fifteen (15) feet apart) which can be reasonably expected to form a complete visual barrier that is at least six (6) feet above ground level within two (2) years of planting. Park owners who prohibit storage of boats, motorcycles, recreation vehicles and similar equipment are not required to construct common areas for storage and parking.

(5) *Sidewalks.* Common sidewalks shall be installed along one (1) side of all internal collector roads within the mobile home park to the public right-of-way and to service all on-site facilities. Individual sidewalks shall be constructed to connect at least one (1) entrance to the home, patio, porch, or deck, and the

parking spaces serving the home or a common sidewalk. All sidewalks shall have a minimum width of three feet and shall meet the standards established in Rule R125.1928.

(6) *Accessory structures and facilities.*

a. Accessory structures, including park management offices, storage buildings, laundry facilities or community facilities, shall be designed and operated for the exclusive use of park residents.

b. Site-built buildings and structures within a mobile home park, such as a management office or clubhouse, and any addition to a mobile home that is not certified as meeting the standards of the U.S. Department of Housing and Urban Development (HUD) for mobile homes, shall be constructed in compliance with applicable state building, electrical, and fire codes and shall be subject to approval of appropriate permits and certificates of occupancy by the city.

c. *Storage.* Each mobile home site shall be permitted one (1) storage shed or garage with a maximum area of one hundred forty-four (144) square feet for the storage of personal property. Such structures shall be constructed in accordance with applicable local, county, and state standards.

i. Except as otherwise noted in this section, no personal property (including tires) shall be stored outside or under any mobile home, or within carports which are open on any side.

ii. Bicycles and motorcycles may be parked in carports.

iii. Seasonal outdoor storage of outdoor cooking grills is permitted, so long as they are kept on a finished wooden deck, a concrete or asphalt patio, or equivalent type of surface associated with the home.

(7) *Open space.* Any mobile home park containing fifty (50) or more mobile home sites shall provide a minimum of twenty-five thousand (25,000) square feet or two (2) percent of the gross park acreage, whichever is greater, of dedicated and contiguous open space, which shall be shown on the preliminary plan. Any other open space areas or recreational improvements provided at the developer's option shall also be shown on the preliminary plan.

(8) *Perimeter screening.*

a. If a manufactured housing community abuts an existing residential development, the community shall be required to provide screening along the boundary abutting the residential development.

b. If the community abuts a nonresidential development, it need not provide screening.

c. In all cases, however, a community shall provide screening along the boundary abutting a public right-of-way.

d. The landscaping shall consist of evergreen trees or shrubs at least three (3) feet in height at time of planting which are spaced so that they provide a continuous screen at maturity. Alternative screening devices may be utilized if they buffer the manufactured housing community as effectively as the required landscaping described above.

(9) *Site landscaping.* Exposed ground surfaces in all parts of the community shall be paved or covered with ornamental stone or protected with grass, trees, or shrubs that are capable of preventing soil erosion. The ground surface and all parts of the community shall be graded and equipped to drain all surface water in a safe and efficient manner.

(10) *Parking lot landscaping.* Off-street parking lots containing more than fifteen (15) spaces shall be provided with at least ten (10) square feet of interior parking lot landscaping per space. Such areas shall measure at least one hundred fifty (150) square feet and shall be at least fifty (50) percent

covered by sod, shrubs, ground cover, or other live plant material. At least one (1) deciduous tree shall be planted per three hundred (300) square feet of parking lot landscaped area.

(11) *Signs.* Each mobile home park shall be permitted either:

a. Two (2) signs, each of which shall not exceed five (5) feet in height and sixteen (16) square feet in area and shall be set back a minimum of ten (10) feet from any property or right-of-way line; or,

b. One (1) sign, which shall not exceed five (5) feet in height and thirty-two (32) square feet in area and shall be set back a minimum of ten (10) feet from any property or right-of-way line.

c. Management offices and community buildings in a mobile home park shall be permitted one (1) identification sign not to exceed six (6) square feet in area.

(12) *Trash dumpsters.* If proposed, trash dumpsters shall comply with the following requirements:

a. Dumpsters shall be set back a minimum distance of fifty (50) feet from the perimeter of the mobile home park and at least fifteen (15) feet from any building, in a location that is clearly accessible to the servicing vehicle.

b. Dumpsters shall be screened on three (3) sides with a decorative masonry wall or wood fencing, not less than six (6) feet in height. The fourth side of the dumpster screening shall be equipped with an opaque lockable gate that is the same height as the enclosure around the other three (3) sides.

c. Dumpsters shall be placed on a concrete pad which shall extend a minimum of three (3) feet in front of the dumpster enclosure. Bollards (concrete filled metal posts) or similar protective devices shall be installed at the opening of the dumpster enclosure to prevent damage to the screening wall or fence.

(13) *Canopies and awnings.* Canopies and awnings may be attached to any mobile home. Canopies and awnings shall comply with the setback and distance requirements set forth in section 36-110, MHP mobile home park district supplemental standards, and may require a building permit, pursuant to 1972 PA 230, as amended.

(14) *Water and sewer service.* All lots shall be provided with public water and sanitary sewer service, or water and sanitary sewer services that shall be approved by the Michigan Department of Environmental Quality, pursuant to MDEQ Rules R325.3321 and R325.3331 through R325.3335. Water line connections shall meet the specifications contained in Rule R125.1603(a) and MDEQ Rule R325.3373. Water system meters shall comply with MDEQ Rule R325.3321 and Rule R125.1940a.

(15) *Telephone and electric service.* All electric, telephone, cable TV, and other lines within the park shall be underground.

(16) *Natural gas and liquefied petroleum gas.* The installation, maintenance, operation, and service of manufactured home community fuel and gas heating systems and connections shall comply with the standards contained and referenced in Rules R125.1603(b), R125.1710(1), R125.1934 through R125.1938, R25.1940(3), and MDEQ Rule R325.3373(2)(d).

(17) *Operational requirements.*

a. *Permit.* It shall be unlawful for any person to operate a mobile home park unless that individual obtains a license for such operation in compliance with the requirements of the Mobile Home Commission Act (P.A. 96 of 1987, as amended). The building official shall communicate recommendations regarding the issuance of such licenses to the director of the Bureau of Construction Codes, Michigan Department of Labor and Economic Growth.

b. *Violations.* Whenever, upon inspection of any mobile home park, the building official finds that conditions or practices exist which violate provisions of this section, the building official shall give notice in writing by certified mail to the Director of the Bureau of Construction Codes, Michigan Department of Labor and Economic Growth, including the specific nature of the alleged violations and a description of possible remedial action necessary to effect compliance. Sections 17(2) and 36 of the Mobile Home Commission Act (P.A. 96 of 1987, as amended) shall govern this process.

The notification shall include such other information as is appropriate in order to fully describe the violations and potential hazards to the public health, safety and welfare resulting from the violation. A copy of such notification shall be sent by certified mail to the last known address of the park owner or agent.

c. *Inspections.* The building official or other authorized city agent is granted the authority, as specified in the Mobile Home Commission Act, P.A. 96 of 1987, as amended, to enter upon the premises of any mobile home park for the purpose of determining compliance with the provisions of this chapter.

d. *License.* A mobile home park shall not be operated until a license has been issued by the State of Michigan.

(18) *Sale of mobile homes.* New or pre-owned mobile homes, which are to remain on-site in the mobile home park, may be sold by the resident, owner, or a licensed retailer or broker, provided that the mobile home park management permits the sale, as established in Section 28a of the Mobile Home Commission Act and Rules R125.2001a, R125.2005, R125.2006, and R125.2009(e).

(19) *Mailbox clusters.* The United States Postal Service may require that mobile home parks be served by clusters of mailboxes serving several sites rather than individual mailboxes serving individual sites. If mailbox clusters are required, they shall be located at least fifty (50) feet from any intersection of a mobile home park road with a public road.

(Ord. No. H-07-01, § 6.105, 7-24-07)

Sec. 36-146. Multiple-family dwellings and developments.

(a) *General standards.* Multiple-family dwellings and developments shall be subject to the following:

(1) *Building design and composition.* The following standards shall apply to all new multiple-family dwellings:

a. *Side and rear facades.* Walls visible from a street or other residential uses shall include windows and architectural features similar to the front facade of the building, including, but not limited to, awnings, cornice work, edge detailing, or other decorative finish materials.

b. *Roof.* All buildings shall have pitched roofs, which may include functional dormer windows and varying lines customary with gable or hip style roofing.

c. *Maximum building length.* No building shall exceed two hundred (200) feet in length.

(2) *Outdoor recreation.* Passive or active outdoor recreation facilities shall be provided in accordance with the following standards:

a. Outdoor recreation areas shall occupy a minimum of fifteen (15) percent of the gross lot area. The planning commission may waive this requirement upon determination that adequate public or private recreation facilities are available to serve the intended residents.

b. Recreation facilities may include outdoor seating, playgrounds, swimming pools, walking paths and other recreational elements designed for the intended residents of the development.

c. Outdoor recreation areas shall be physically and visibly accessible to residents, and shall not be located within any required yard setbacks or building separations.

(3) *Utilities.* All multiple-family dwellings shall be connected to publicly owned and operated water and sanitary sewer systems.

(4) *Storage.* Parking or storage of recreational vehicles, boats, utility trailers or similar items shall be prohibited, except in areas designated on an approved site plan. Such areas shall be screened per subsection 36-392(e), Screening.

(b) *Site circulation and parking.* All developments of one (1) or more multiple-family dwellings shall be subject to the following:

(1) *Street design and dimensions.* On-site streets and drives shall comply with the standards in section 8.02, Streets, roads, and other means of access.

(2) *Emergency access.* Dual paved access throughout a multiple-family development shall be required. A boulevard with a minimum twenty-five-foot wide median strip may be used for dual access. Entrances to private roadways shall not have locked gates or barricades that would impede emergency access.

(3) *Maximum street length.* No dead-end street shall be more than three hundred (300) feet in length and a suitable turning space shall be provided for vehicles at the terminus of all dead-end streets.

(4) *Connection to adjacent neighborhoods.* Street connections shall be provided to adjacent neighborhoods and parcels in residential districts.

(5) *On-street parking prohibited.* On-street parking shall not be permitted along any access drive within a multiple-family development.

(6) *Parking.* The planning commission may give credit towards parking requirements where abutting on-street parking is available. All off-street parking spaces must be screened from abutting public streets and single-family residential uses per subsection 36-392(e), Screening.

(7) *Pedestrian circulation.* Concrete sidewalks with a minimum width of five (5) feet shall be provided along both sides of interior streets, and from parking areas, public sidewalks and recreation areas to all building entrances. Public sidewalks shall be provided along abutting public streets per city standards.

(Ord. No. H-07-01, § 6.106, 7-24-07)

Sec. 36-147. Nursing homes, including convalescent homes and rest homes.

(a) *Lot area.* The minimum lot size for a nursing home shall be two (2) acres.

(b) *Frontage and access.* A nursing home shall front onto a paved major thoroughfare and the main means of access shall be via the thoroughfare. The planning commission may allow secondary access to the site via local streets.

(c) *Setbacks.* The principal building and all accessory buildings associated with the nursing home shall be set back a minimum distance of fifty (50) feet from any residential zoning district.

(d) *Screening. Any* ambulance bay, loading zone, or delivery area shall be screened from an adjacent parcel zoned for residential use. The required screening shall, at a minimum, consist of a five-foot high landscape screen or decorative masonry wall, according to the provisions of subsection 36-392(e), Screening or section 36-398, Obscuring walls and fences.

(e) *Open space.* A nursing home shall provide a minimum of eight hundred (800) square feet of outdoor open space for every bed used or intended to be used. The open space shall be landscaped and shall include places

for walking and sitting. Off-street parking areas, driveways, required setbacks, and accessory uses or areas shall not be counted toward the open space required by this subsection.

(f) *State and federal regulations.* Nursing homes, convalescent homes, and rest homes shall be constructed, maintained, and operated in conformance with all applicable state and federal laws.

(g) *Accessory uses.* Accessory retail, restaurant, office, and service uses may be permitted within the principal residential building. No exterior signs of any type are permitted for these accessory uses.

(Ord. No. H-07-01, § 6.107, 7-24-07)

Sec. 36-148. Senior citizen housing.

(a) *General standards.*

(1) *Compatibility with neighborhood.* Any senior citizen housing facility and the property included therewith shall be maintained in a manner consistent with the typical scale, character, materials, and landscaping of the neighborhood in which it is located.

(2) *Compliance with construction codes.* All construction of senior citizen housing facilities shall meet current applicable codes including Michigan Public Health Code Act 368 P.A. 1978 Part 129, as amended.

(3) *Eligibility.* For purposes of this section, those eligible to be residents within any senior citizen housing development are defined as individuals who have attained the age of fifty-five (55) years, or couples of which either partner has attained the age of fifty-five (55) years.

(4) *Exclusion.* Senior citizen housing facilities shall not include any state licensed residential facility, as defined by this chapter.

(b) *Assisted living facilities.*

(1) *Basic amenities.* Assisted living facilities shall consist of dwelling units containing private living/sleeping areas and sanitary facilities in addition to common service areas, including central dining room(s), recreational room(s), laundry service, housekeeping service, and a central lounge.

(2) *Resident meal service.* Assisted living facilities shall provide at least two (2) common meals per day, seven (7) days a week. Meals must be prepared in a kitchen facility licensed by the state through the county health department.

(3) *Maximum density.* The maximum density of assisted living facilities shall not exceed a maximum of two (2) assisted living units per dwelling unit permitted in the zoning district. Each assisted living unit shall have a minimum gross floor area of three hundred (300) square feet, not including kitchen and sanitary facilities.

(c) *Congregate housing.*

(1) *Basic amenities.* Congregate housing facilities shall consist of dwelling units containing private kitchen, sanitary, sleeping and living spaces in addition to common service areas, including central dining room(s), recreational room(s), and a central lounge.

(2) *Maximum density.* The maximum number of congregate housing units on a site shall not exceed the density permitted in the zoning district.

(d) *Independent senior citizen living.* Independent living facilities include senior apartments and senior housing complexes not otherwise defined in this chapter.

(1) *Unit types.* Independent senior citizen living units may include attached or detached cottage-type dwellings, townhouses, or apartments consistent with all provisions of this chapter otherwise applicable to such dwellings.

(2) *Private outdoor living space.* Private outdoor living space shall be provided for each independent senior citizen living unit. Such space shall be adjacent to the unit, and the total area shall equal or exceed ten (10) percent of the gross floor area of the unit.

(3) *Maximum density.* The maximum number of independent senior citizen living units on a site shall not exceed the density permitted in the zoning district.

(e) *Accessory buildings and uses.* The following accessory buildings and uses shall be permitted in conjunction with an approved senior citizen housing development.

(1) General nursing facilities designed solely for the residents.

(2) Attached or detached carports or garages.

(3) Community and/or recreational buildings, not exceeding two stories in height and designed to serve the residents of the development.

(4) Maintenance buildings and gatehouses for other than shared senior citizen living units not exceeding one story in height.

(5) Meeting and activity facilities.

(6) Dining room facilities.

(7) Beauty shops or barbershops.

(8) Laundry rooms.

(9) Similar accessory facilities for facility residents, employees, and their guests.

(10) *Manager's quarters.* For all senior citizen housing developments, there may be provided on-site living quarters and/or offices for a manager and activities director who is trained and knowledgeable of local resources relating to in-home support and other services beneficial to residents.

(f) *Additional required conditions.*

(1) *Limitation on public use.* All facilities of a senior citizen housing development, such as common service areas, central dining rooms, recreational rooms, and lounges, shall be solely for the use of the residents, employees and invited guests of the development, but not for the general public.

(2) *Site circulation.*

a. *Access.* All vehicular access to the site shall be from a public street classified as a collector, arterial, or thoroughfare by the city's master plan, or county or state road authorities. The planning commission may allow secondary access from local streets.

b. *Impact on traffic.* The street upon which the senior citizen housing use will front shall be demonstrated to have sufficient capacity to accommodate expected traffic volumes from the use without detrimental impacts upon levels of safety, travel times, and overall level of service.

c. *Circulation.* Vehicles shall be able to easily circulate within and through the site to a designated pick-up/drop-off area, without impeding circulation on the site or traffic on nearby roads.

d. *Sidewalk connections.* Sidewalks shall be provided from main building entrances to sidewalks along adjacent streets.

(3) *Recreation and open space.* Any assisted living or congregate housing facility shall provide at least twenty (20) square feet of indoor recreation space and at least fifty (50) square feet of usable outdoor open space for each dwelling unit in the facility. All indoor recreation space and outdoor open space shall be available and accessible to all residents of the development.

a. *Location.* Usable outdoor open space may be located on the ground, on terraces, or on rooftops and shall be landscaped or developed for active or passive recreation.

b. *Site elements included as open space.* The required outdoor open space may include patios, park benches, courtyards and landscaping, roofed recreation areas enclosed on not more than one (1) side, unenclosed porches, and swimming pools. Walkways and paved pedestrian plazas may be included as usable outdoor open space.

c. *Site elements not included as open space.* Off-street parking areas, driveways, required setbacks, submerged lands, and loading/unloading areas shall not be counted toward the open space required by this subsection.

d. *Modification of requirements.* Open space requirements may be modified by the planning commission where a development site abuts a public park or other suitable open space located within a reasonable walking distance for the occupants of said housing development.

(4) *Emergency systems.* An emergency alert system for the entire senior citizen housing development shall be provided, which may include a bell entry system and an alarm system.

(5) *Barrier-free accommodation.* In addition to the requirements of the State of Michigan's Barrier Free Code, all dwelling units and related facilities utilized by the tenants shall be specifically designed for use by the elderly including, but not limited to, provision for minimum thirty-two-inch clear door widths and assist bars at water closets, bathtubs, and showers. In one-story units, wherever steps are located, at least one (1) ramp shall be provided. Where there are two-story units, at least fifty (50) percent of the units of the building shall be accessible to handicapped individuals.

(6) *Timing of amenities.* All site development amenities, such as common service areas (e.g., central dining rooms, recreational rooms, and central lounges) shall be provided in the first phase of any multi-phase project.

(g) *Review procedures.* A proposed senior citizen housing development shall be subject to all review standards as provided in article XIV, Procedures and Standards, of this chapter, as well as the following additional standards.

(1) *Special considerations.* Project applications for senior citizen housing developments shall take into account the needs of elderly persons for:

a. Transportation.

b. Shopping.

c. Health facilities.

d. Recreational facilities.

(2) *Restriction to approved use.* Any approval of a proposed senior citizen housing use shall be restricted to senior citizen housing only.

(Ord. No. H-07-01, § 6.108, 7-24-07)

Sec. 36-149. Single-family and two-family dwellings.

(a) *Intent.* This section is not intended to discourage architectural variation, but shall seek to promote the reasonable compatibility of the character of dwelling units, thereby protecting the economic welfare and property value of surrounding residential uses and the city at large.

(b) *General standards.* Detached single-family and two-family (duplex) dwellings, except mobile homes located in an approved and licensed mobile home park, shall comply with the following standards:

(1) *Exterior wall and roof configuration.* Dwelling units shall be provided with an exterior building wall, foundation, and roof configuration that is similar to dwelling units on adjacent properties or in the surrounding residential neighborhood. The minimum width across any front, side, or rear elevation shall be twenty-four (24) feet, and the average width-to-depth or depth-to-width ratio shall not exceed three to one (3:1).

(2) *Exterior finish materials.* Dwelling units shall be provided with exterior finish materials similar to and aesthetically compatible with the dwelling units on adjacent properties or in the surrounding residential neighborhood. Such materials shall include siding or wall materials, windows, porches, and shingles and other roofing materials.

(3) *Foundation.* Dwelling units shall be permanently attached to a perimeter foundation, which shall have the same perimeter dimensions as the dwelling. Foundations and anchoring systems shall comply with all applicable local, county, and state building codes.

(4) *Utilities.* All new dwellings shall be connected to a publicly owned and operated water and sanitary sewer system.

(5) *Storage.* Each dwelling unit shall contain storage capability in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which shall be equal to a minimum of ten (10) percent of the square footage of the dwelling or one hundred (100) square feet, whichever is less.

(6) *Garages.* A private, attached single-family residential garage shall not occupy more than fifty (50) percent of the linear frontage of the principal residential building and shall be set back a minimum of five (5) feet from the front facade of a principal residential building. Detached garages are permitted subject to section 36-251, Accessory structures. Garage doors, when visible from the street, shall not exceed nine feet in width for a one-car garage and sixteen (16) feet for a two-car garage. Where there are multiple garage doors, they shall be separated by a solid wall or jamb not less than eight (8) inches in width.

(7) *Distance between buildings.* Each residential lot shall provide between principal residential buildings on adjacent lots a minimum distance of fourteen (14) feet or twenty (20) percent of the lot width, whichever is greater.

(8) *Determinations.* The compatibility of design and appearance shall be determined by the building official or his designee, subject to appeal by an aggrieved party to the zoning board of appeals. The building official shall require the applicant to furnish such plans, elevations, and similar documentation as is deemed necessary to permit a complete review and evaluation of the proposal.

Any determination of compatibility shall be based upon a comparison to the character, design, and appearance of homes in the same neighborhood within three hundred (300) feet of the subject lot, excluding any manufactured housing park. If the area within three hundred (300) feet does not contain any such homes, then the nearest twenty-five (25) similar type dwellings shall be considered.

(Ord. No. H-07-01, § 6.109, 7-24-07)

Sec. 36-150. State licensed residential facilities.

(a) *In general.* The following regulations shall apply to all state licensed residential facilities, as defined by this chapter and as licensed by the State of Michigan; and to all other managed or state licensed residential facilities.

(1) *Licensing.* In accordance with applicable state laws, all state licensed residential facilities shall be registered with or licensed by the State of Michigan, and shall comply with applicable standards for such facilities.

(2) *Separation requirements.* New state licensed residential facilities shall be located a minimum of one thousand five hundred (1,500) feet from any other state licensed residential facility, as measured between the nearest points on the property lines of the lots in question. The planning commission may permit a smaller separation between such facilities upon determining that such action will not result in an excessive concentration of such facilities in a single neighborhood or in the city overall.

(3) *Compatibility with neighborhood.* Any state licensed residential facility and the property included therewith shall be maintained in a manner consistent with the visible characteristics of the neighborhood in which it is located.

(b) *Group day care homes.* In addition to the preceding subsection, the following regulations shall apply to all group day care homes, as defined in this chapter.

(1) *Outdoor play area.* A minimum of one hundred fifty (150) square feet of outdoor play area shall be provided and maintained per child at the licensed capacity of the day care home, provided that the overall play area shall not be less than five thousand (5,000) square feet. The play area shall be located in the rear yard area of the group day care home premises and shall be suitably fenced and screened.

(2) *Pick-up and drop-off.* Adequate areas shall be provided for employee and resident parking, and pick-up and drop-off of children or adults, in a manner that minimizes pedestrian-vehicle conflicts and allows maneuvers without affecting traffic flow on the public street.

(3) *Hours of operation.* Group day care homes shall not operate more than sixteen (16) hours per day.

(Ord. No. H-07-01, § 6.110, 7-24-07)

Secs. 36-151—36-160. Reserved.

DIVISION 2. COMMERCIAL USES

Sec. 36-161. Amusement arcades.

(a) *Access.* All amusement arcades shall have frontage on, and direct vehicle access to, a public street classified as a collector, arterial, or major thoroughfare by the city's master plan, this chapter, or county or state road authorities.

(b) *Location.* No amusement arcade shall be located within five hundred (500) feet of a school, place of worship, or any residentially-zoned parcel.

(c) *Floor area limitations.* Amusement arcades located in the O, office district shall not exceed a maximum usable floor area of one thousand five hundred (1,500) square feet.

(d) *Outdoor amusement arcades.* Outdoor amusement arcades and outdoor recreation establishments shall be subject to the standards of section 36-169, Open-air businesses.

(Ord. No. H-07-01, § 6.201, 7-24-07)

Sec. 36-162. Automobile or vehicle dealerships.

Automobile or vehicle dealers, including those establishments with repair facilities and/or outdoor sales space, shall be subject to the requirements of this section. These requirements shall apply to operations involved in the sale, lease or rental of new or used vehicles, house trailers, recreational vehicles, trucks, and other vehicles. Recreational vehicle dealers shall be further subject to the requirements of section 36-233:

(1) *Frontage.* All automobile dealerships shall have a minimum frontage of sixty (60) feet along a major thoroughfare.

(2) *Setbacks.* Outdoor sales lots, parking areas, and other vehicle maneuvering areas shall comply with the locational requirements for parking lots, as specified in section 36-363, General standards.

(3) *Landscaping adjacent to road.* The required greenbelt for an automobile dealership may be sodded in lieu of other plantings required in section 36-398.

(4) *Grading, surfacing, and drainage.* Outdoor sales lots, parking areas, and other vehicle maneuvering areas shall be hard-surfaced with concrete or plant-mixed bituminous material, and shall be graded and drained so as to dispose of surface waters. Grading, surfacing, and drainage plans shall be subject to review and approval by the city engineer.

(5) *Servicing of vehicles.* Any servicing of vehicles shall be subject to the following requirements:

a. Service activities shall be clearly incidental to the vehicle sales operation.

b. Vehicle service activities shall occur within a completely enclosed building.

c. Partially dismantled vehicles, damaged vehicles, new and used parts, and discarded parts shall be stored within a completely enclosed building.

d. There shall be no external evidence of the service operations, in the form of dust, odors, or noise, beyond the service building.

(6) *Additional use standards.*

a. Broadcasting devices prohibited. Devices for the transmission or broadcasting of voice or music shall be prohibited outside of any building.

b. Permanent building required. There shall be provided on the site a permanent building within which records of the dealership shall be stored.

c. Any automobile dealership shall comply with applicable city and county health regulations.

(7) In order to prevent the oversaturation of automobile dealerships within the local market, to help maintain an inventory of building sites suitable for diverse businesses within the city, and to promote the aesthetic appeal of the city's commercial corridors, no automobile dealership may be located closer than one thousand (1,000) feet from another automobile dealership located within the city borders unless both are part of a planned automotive mall. In keeping with the intent of this section, automobile dealerships located outside the City of Dearborn Heights shall not be considered in the application of this separation regulation.

(Ord. No. H-07-01, § 6.202, 7-24-07; Ord. No. H-13-04, § 1B, 10-8-13; Ord. No. H-16-01, § 1B, 10-11-16; Ord. No. H-18-08, § 1, 11-27-18)

Sec. 36-163. Bars and lounges; restaurants (without drive-through service).

(a) *Location.* No bar or lounge shall be located within five hundred (500) feet of a school or place of worship. Screening shall be required where a bar, lounge, or restaurant is adjacent to any parcel in residentially use, in accordance with subsection 36-392(e), Screening.

(b) *Off-street parking.* Off-street parking shall be provided in accordance with article IX, Parking, Loading, and Access Management.

(c) *Access and circulation.* Vehicular circulation patterns shall be designed to eliminate potential conflicts between traffic generated by the site and traffic on adjacent streets, and the number and location of curb cuts shall be the minimum necessary to provide adequate access to the site.

(d) *Trash receptacle enclosure.* Dumpsters and other trash receptacles shall be screened in accordance with section 36-253, Trash enclosures.

(Ord. No. H-07-01, § 6.203, 7-24-07)

Sec. 36-164. Big box commercial uses.

(a) *Standards for use.* Any commercial use with more than fifty thousand (50,000) square feet of total gross floor area (including 'big-box' stores, supermarkets, wholesale stores, and multi-tenant shopping centers with more than fifty thousand (50,000) square feet of total gross floor area in a single building footprint) shall be subject to the following:

(1) *Access and circulation.* Vehicular circulation patterns shall be designed to eliminate potential conflicts between traffic generated by the site and traffic on adjacent streets, and the number and location of curb cuts shall be the minimum necessary to provide adequate access to the site.

a. Sites shall have frontage on a public street classified as an arterial or major thoroughfare by the city's master plan, this chapter, or county or state road authorities. Vehicle access to local or collector streets shall be prohibited.

b. A traffic impact study shall be provided, per subsection 36-395(11), Transportation impact studies.

c. A retail market study demonstrating the need for the proposed facility shall be provided.

(2) *Outlots.* The site design, circulation, parking layout, and building architecture of any outlots shall be complementary to and fully integrated with the design of the overall site. Separate curb cuts for any outlots shall be prohibited, except where determined to be necessary by the planning commission.

(3) *Screening.* Screening shall be required from adjacent residential districts in accordance with subsection 36-392(e), Screening, along with adequate screening for all loading facilities, trash dumpsters, and mechanical equipment. In addition, front yard parking shall be screened in accordance with subsection 36-392(e), Screening.

(4) *Loading areas.* Loading/unloading of merchandise or equipment, and trash disposal or compaction shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m. Trucks or trailers parked at a loading dock may be unloaded onto the loading dock between the hours of 10:00 p.m. and 7:00 a.m., provided that all activity occurs inside the truck or trailer or within the building.

(5) *Pedestrian access.* A six-foot wide concrete sidewalk shall be provided from public sidewalks to all public entrances of a big-box commercial use in a manner that effectively separates pedestrians from vehicular traffic. Driveway crossings shall be clearly delineated with pavement striping.

(Ord. No. H-07-01, § 6.204, 7-24-07)

Sec. 36-165. Catering and banquet facilities.

Accessory use. In the C1, neighborhood business district and CX, commercial-residential mixed use district, catering and banquet hall facilities shall only be permitted as an accessory use located entirely within a permitted standard restaurant use.

(Ord. No. H-07-01, § 6.205, 7-24-07)

Sec. 36-166. Child care centers.

(a) *Licensing.* In accordance with applicable state laws, all child care centers shall be registered with or licensed by the State of Michigan, and shall comply with the minimum standards outlined for such facilities.

(b) *Outdoor recreation area.* A minimum of one hundred fifty (150) square feet of outdoor recreation area shall be provided and maintained per child at the licensed capacity of the child care center, provided that the overall area shall not be less than five thousand (5,000) square feet. The outdoor recreation area shall be suitably fenced, secured, and screened from abutting residential uses in accordance with subsection 36-392(e), Screening. The planning commission may approve the use of off-site outdoor recreational facilities to satisfy this requirement, in which case documentation citing state approval of such shall be provided.

(c) *Pick-up and drop-off.* Adequate areas shall be provided for employee parking and pick-up and drop-off of children or adults in a manner that minimizes pedestrian-vehicle conflicts and disruption of traffic flow on the public streets.

(d) *Access and frontage.* Child care centers shall have frontage on, and direct vehicle access to, a public street classified as a collector, arterial or thoroughfare by the city's master plan, or county or state road authorities. Vehicle access to local streets shall be limited to secondary access where necessary for health and safety purposes.

(e) *Hours of operation.* Child care centers in residential districts or accessory to a residential use shall operate no more than sixteen (16) hours per day.

(Ord. No. H-07-01, § 6.206, 7-24-07)

Sec. 36-167. Reserved.

Editor's note(s)—Ord. No. H-13-04, § 1B, adopted Oct. 8, 2013, repealed § 36-167, which pertained to commercial greenhouses and derived from Ord. No. H-07-01, § 6.207, adopted July 24, 2007)

Sec. 36-168. Funeral homes and mortuaries.

(a) *Assembly area.* An adequate off-street assembly area shall be provided for funeral processions and activities. All maneuvering areas and exit aprons shall be located within the site and may be incorporated into the required off-street parking. Streets and alleys shall not be used for maneuvering or parking of vehicles.

(b) *Screening.* The service and loading area shall be screened from adjacent residential districts or existing residential uses per subsection 36-392(e), Screening.

(c) *Crematories.* Crematories in conjunction with funeral homes or mortuaries are not permitted.

(Ord. No. H-07-01, § 6.208, 7-24-07)

Sec. 36-169. Open-air businesses.

(a) *Applicability.* Open air businesses and outdoor display areas for the sale, exhibition, rental or leasing of retail merchandise, manufactured or modular housing products, trailers, boats, building supplies, hardware, plant materials not grown on the site, lawn furniture, playground equipment, lawn and garden supplies, and similar items shall be subject to the following:

(1) *Site plan approval.* Creation, expansion or alteration of an open air business and/or outdoor display area on a zoning lot shall be subject to site plan approval per article XIV, division 2, Site plan review.

(2) *Lot area.* The minimum lot size for open-air businesses shall be five thousand (5,000) square feet.

(3) *Location requirements.* All sales activity and outdoor display shall be limited to the areas specified on an approved site plan.

a. No sales activity or display of merchandise shall be permitted within a street right-of-way or required setback area.

b. Open air businesses and outdoor display areas shall be set back a minimum of ten (10) feet from any parking area, driveway or access drive, and twenty (20) feet from any residential district or use.

c. The proposed activity shall be located so as to ensure safe vehicular and pedestrian circulation. A minimum of five (5) feet of sidewalk width to the entrance of the establishment shall be maintained free for pedestrian circulation.

(4) *Screening.* Such uses shall be screened from street rights-of-way and abutting residential districts or uses in accordance with subsection 36-392(e), Screening.

(5) *Use standards.* Open air businesses and outdoor display areas shall conform to the following use limitations:

a. Such areas shall be kept clean and litter-free, with outdoor waste receptacles provided.

b. Devices for the outdoor broadcasting of voice, telephone monitoring, music or any other amplified sound shall be prohibited.

c. The storage of any soil, fertilizer or other loose, unpacked materials shall be contained so as to prevent any effects on adjacent uses.

d. Operational hours for open air businesses, outdoor display area, and exterior lighting may be restricted by the planning commission to protect nearby residential districts.

(6) *Outdoor display of vehicles.* Outdoor sales space for the sale of new or used motor vehicles, house trailers, boats, boat trailers and/or recreational vehicles may be permitted only if carried on in conjunction with a regularly authorized automobile or recreational vehicle dealership that is housed in a permanent building on the same parcel of land or on contiguous parcels of land, subject to section 36-162. This provision shall not prohibit a private individual, on his own property, from offering for sale not more than one (1) of his personally owned motor vehicles or boats at any one (1) time; but he shall not so offer for sale more than three (3) motor vehicles or boats per year without complying with the zoning requirements for the sale of used motor vehicles or boats.

(b) *Temporary outdoor displays in the CX, commercial-residential mixed use district.* The standards of this section shall not apply to temporary outdoor display areas within the street right-of-way in the CX district. Such displays shall be subject to city council approval.

(Ord. No. H-07-01, § 6.209, 7-24-07; Ord. No. H-13-04, § 1B, 10-8-13)

Sec. 36-170. Outdoor seating for restaurants.

(a) Outdoor seating areas are allowed as an accessory use at restaurants, bars, taverns, coffee shops, cafes, bistros, bakeries, delicatessens, specialty food stores, and/or other similar establishments, and are subject to the following requirements:

(1) *Accessory to primary use.* The outdoor seating area must be accessory to a fully-operational restaurant located on the same site.

(2) *Limits on nuisance.* No music, speakers, intercoms, or similar devices shall be permitted. Operation of an outdoor seating area must not adversely impact adjacent or nearby residential, religious, educational, or commercial properties and must be in accordance with all applicable codes and regulations.

(3) *Outdoor food storage and preparation.* Outdoor food storage is prohibited. Outdoor food preparation may be permitted, provided that the location and type of cooking equipment is shown on the site plan or sketch plan and is subject to any conditions that may be imposed by the city or Wayne County Health Department to minimize the off-site impact of such operations.

(b) A temporary outdoor seating area may be approved administratively through the building official, with input from the city fire department, police department, engineer and planning consultant, according to the following guidelines and process.

(1) *Sketch plan required.* A sketch plan must be submitted for review. The sketch plan must indicate the location of the outdoor seating area, proposed lighting, access, fences, landscaping, trash removal, setbacks from property lines, and other proposed improvements associated with the outdoor seating area.

a. The capacity of the outdoor seating area must be considered along with the indoor seating for the purposes of determining compliance with required parking.

b. The outdoor seating area must comply with the setback requirements for a principal building or structure in the zoning district.

c. The sketch plan must specify the plans for storage of tables, chairs, and equipment during the periods when the outdoor seating area is not in use.

d. The hours of operation for the outdoor seating area must be specified on the sketch plan. Hours of operation is subject to approval by the building official.

e. The proposed dates for the temporary outdoor seating use must be specified. No temporary outdoor seating use may continue for more than five (5) months in any calendar year.

f. A temporary outdoor seating use may be converted to a permanent outdoor seating use by site plan amendment, following the procedures described in section 36-170(c).

(4) *Agency approvals.*

a. Temporary outdoor seating and temporary outdoor food preparation areas are subject to applicable Wayne County Health Department requirements.

b. A proposed temporary outdoor seating area must be reviewed and approved by the fire chief, police chief, building official, engineer, and planning consultant.

(5) *Permit required.* A temporary outdoor seating permit issued by the building department is required for all outdoor seating areas that are not part of an approved site plan. Repeated violations of section 36-170(a) may result in the revocation of the temporary outdoor seating permit.

(c) A permanent outdoor seating area use must be approved using the site plan review procedure located in article XIV of the City Zoning Ordinance. In addition to any other requirements set forth in the City Zoning Ordinance, the requirements of section 36-170(a) shall apply, and the proposed site plan must include the following:

(1) The site plan must indicate the location of the outdoor seating, proposed lighting, access, fences, landscaping, trash removal, setbacks from property lines, and other proposed improvements associated with the outdoor seating.

(2) The capacity of the outdoor seating area must be considered along with the indoor seating for the purposes of determining compliance with required parking.

(3) The outdoor seating must comply with the setback requirements for a principal building or structure in the zoning district.

(4) The site plan must specify the plans for storage of tables, chairs, and equipment during the months when the outdoor seating is not in uses.

(5) The hours of operation for the outdoor seating must be specified on the site plan. Hours of operation is subject to approval by the planning commission.

(6) The proposed dates for the outdoor seating use must be specified.

(7) *Agency approvals.*

a. Outdoor seating and outdoor food preparation areas are subject to applicable Wayne County Health Department requirements.

b. Outdoor seating must be reviewed by the fire chief, police chief, building official, engineer, and planning consultant, with any comments submitted to the planning commission during the review of the site plan application.

(Ord. No. H-07-01, § 6.210, 7-24-07; Ord. No. H-20-03 , § I, 11-24-20)

Sec. 36-171. Retail bakeries.

(a) *In commercial districts.* In the C1, C2, or CX districts, retail bakeries (NAICS 311811) shall have a minimum of fifty (50) percent of the usable floor area, and the street level facade, used as sales and display areas for sales of products or services at retail on the premises.

(b) *In industrial districts.* In the M1, M2, or MX Districts, retail bakeries (NAICS 311811) shall be limited to a maximum of twenty-five (25) percent of the usable floor area used as sales and display areas for sales of products or services at retail on the premises.

(Ord. No. H-07-01, § 6.211, 7-24-07)

Sec. 36-172. Therapeutic massage.

(a) *Accessory use.* Hospitals, sanitariums, nursing homes, medical clinics, or the offices of physicians, chiropractors, osteopaths, psychologists, clinical social workers, or family counselors licensed to practice in the state shall be permitted to provide massage therapy services as an accessory use. Beauty salons, barbershops, and retail stores selling physical therapy supplies shall also be permitted to provide massage therapy services as an accessory use.

(b) *Certification.* All massage therapists shall be licensed, where such licenses are available, and shall be certified members of the American Massage and Therapy Association (AMTA) or Associated Bodywork and Massage Professionals (ABMP). Proof of such licenses or certifications shall be provided to the city.

(c) *Adult massage parlors prohibited.* All activities that meet the definition of an adult regulated use shall be prohibited.

(Ord. No. H-07-01, § 6.212, 7-24-07)

Sec. 36-173. Veterinary clinics.

(a) *Landscaping and screening.* Outdoor enclosures or runs shall be screened from street rights-of-way and adjacent residential districts and uses per subsection 36-392(e), Screening.

(b) *Operating requirements.* The clinic shall be operated by a licensed or registered veterinarian, and shall be subject to the following:

(1) All boarding shall be limited to animals brought in for treatment or surgery, unless the site has also been approved as a kennel per section 36-232, Kennels.

(2) Other than outdoor runs, all other activities shall be conducted within a completely enclosed building constructed to ensure that noise and odors shall not be perceptible beyond the lot boundaries.

(3) Outdoor exercising is allowed, provided that the pet is accompanied by an employee and that all animal waste is immediately disposed of in a sealed container. Animals shall not be kept or quartered outside of the buildings between 8:00 p.m. and 8:00 a.m.

(4) Other conditions. Veterinary clinics and hospitals shall be subject to all permit and operational requirements established by appropriate regulatory agencies. The planning commission may impose other conditions and limitations deemed necessary to prevent or mitigate possible nuisances related to noise or odor.

(Ord. No. H-07-01, § 6.213, 7-24-07; Ord. No. H-13-04, § 1B, 10-8-13)

Secs. 36-174—36-180. Reserved.

DIVISION 3. AUTOMOBILE-ORIENTED USES

Sec. 36-181. Car wash.

(a) *Minimum lot size.* All car wash establishments shall have a minimum lot area of twenty-one thousand seven hundred eighty (21,780) square feet (one-half acre).

(b) *Setbacks.* All buildings shall maintain a twenty-foot setback from any residential district or use.

(c) *Use standards.*

(1) *Washing.* All washing activities shall be carried on within a fully enclosed building (or a covered vehicle bay for a self-service car wash).

(2) *Drying.* Automatic drying equipment shall be provided within the wash facility, or adequate drying area shall be provided at the wash facility exit.

(3) *Vacuuming.* Vacuuming activities must be located at least fifty (50) feet from adjacent residentially zoned or used property.

(d) *Layout and stacking spaces.*

(1) All maneuvering areas, stacking lanes, and exit aprons shall be located on the car wash parcel itself. Streets and alleys shall not be used for maneuvering or parking by vehicles to be serviced by the car wash.

(2) Sufficient space shall be provided on the lot so that vehicles do not enter or exit the wash building directly from an adjacent street or alley.

(3) Off-street stacking spaces shall be provided in accordance with subsection 36-365(c), Schedule of required parking by use.

(e) *Orientation of open bays.* Buildings should be oriented so that open bays, particularly for self-serve car washes, do not face onto adjacent streets or residentially zoned or used property unless screened by landscaping.

(f) *Entrances and exits.*

(1) Entrances and exits to a car wash shall not face residentially zoned or used property.

(2) Exit lanes shall be sloped to drain water back to the wash building or to drainage grates.

(3) Drains shall be provided at all entrances and exits to prevent surface drainage from flowing across public sidewalks or into the street right-of-way.

(g) *Access.* Curb openings for drives shall not be permitted where such drive would create a safety hazard or traffic nuisance for other ingress and egress drives, traffic generated by other buildings or uses, or adjacent pedestrian crossings.

(h) *Traffic impacts.* A traffic impact study may be required by the planning commission, per subsection 36-395(11), Transportation impact studies.

(Ord. No. H-07-01, § 6.301, 7-24-07; Ord. No. H-13-04, § 1C, 10-8-13)

Sec. 36-182. Drive-in businesses.

(a) *General provisions.* The following provisions shall apply to all drive-in establishments:

(1) *Frontage.* Drive-in businesses shall front onto a paved major thoroughfare and the main means of access shall be via the thoroughfare.

(2) *Screening.* All drive-in businesses shall be screened from all street rights-of-way and abutting residential districts or uses in accordance with subsection 36-392(e), Screening. The standards of section 36-392 shall be a minimum; additional requirements for specific uses are detailed below.

(3) *Traffic.* A traffic impact study may be required by the planning commission, per subsection 36-495(11), Transportation impact studies.

(b) *Drive-in theaters.* In addition to the provisions of subsection (a), the following regulations shall apply to outdoor drive-in theaters:

(1) *Lot size.* The minimum lot size for a drive-in theater shall be ten (10) acres.

(2) *Setbacks.*

a. Buildings or other structures associated with a drive-in theater shall be set back a minimum of one hundred (100) feet from any lot line.

b. The face of the theater screen shall be constructed so it is not visible from any street or highway. No viewing areas may be located closer than forty (40) feet to any lot line.

(3) *Access drive design.* The access drive shall be designed with separate entrance and exit lanes which shall be separated by a landscaped median strip at least twenty (20) feet in width. There shall be a minimum of three (3) entrance and three (3) exit lanes, and each lane shall be at least ten (10) feet in width.

(4) *Stacking space.* A minimum of fifty (50) stacking spaces shall be provided on the premises for vehicles waiting to enter the theater.

(5) *Perimeter screening.* The entire drive-in theater site shall be screened with an eight-foot high fence or screening wall, constructed according to the specifications in section 36-398, Obscuring walls and fences.

(6) *Road access.* In no case shall access to a drive-in theater be off of a residential street.

(c) *Drive-in restaurants.* In addition to the provisions of chapter 16, article III, of the City's Code of Ordinances and the provisions of subsection (a), the following regulations shall apply to all drive-in restaurants:

(1) *Frontage.* All drive-in restaurants shall have a minimum frontage of sixty (60) feet along a major thoroughfare.

(2) *Access.* Vehicular access to the site must be available from at least two (2) points at all times, and such access points must be kept clear to permit emergency egress and ingress.

(3) *Illumination.* The parking area of any drive-in restaurant shall be adequately illuminated. Such illumination shall be arranged so as to reflect away from any adjoining residential area.

(4) *Control of sound level.* Devices for the transmission of voices shall be so directed or muffled as to prevent sound from being audible beyond the boundaries of the site.

(5) *Prohibited uses.* Sales of alcoholic beverages shall be prohibited at any drive-in service facility.

(Ord. No. H-07-01, § 6.302, 7-24-07; Ord. No. H-07-03, § 1C, 1-8-08; Ord. No. H-13-04, § 1C, 10-8-13)

Sec. 36-183. Drive-through businesses.

(a) *General provisions.* The following provisions shall apply to all establishments (restaurants, banks, pharmacies, cleaners, etc.) with a drive-through lane or lanes, in addition to any other requirements for the principal use:

(1) *Frontage.* Drive-through businesses shall have a minimum of sixty (60) feet of frontage along a paved major thoroughfare and the main means of access shall be via the thoroughfare.

(2) *Access.* Curb openings for drives shall not be permitted where the drive would create a safety hazard or traffic nuisance for other ingress and egress drives, traffic generated by other buildings or uses, or adjacent pedestrian crossings.

(3) *Off-street parking and stacking.* Parking and stacking spaces shall be provided according to the provisions of article IX, Parking, loading, and access management.

(4) *Bypass lane.* A bypass lane or similar means of exiting or avoiding the drive-through facility shall be provided, subject to planning commission approval.

(5) *Screening.* All drive-through businesses shall be screened from all street rights-of-way and abutting residential districts or uses in accordance with subsection 36-392(e), Methods of screening and

buffering. The standards of section 36-392 shall be a minimum; additional requirements for specific uses are detailed below.

(6) *Traffic.* A traffic impact study may be required by the planning commission, per subsection 36-495(11), Transportation impact studies.

(7) *Control of sound level.* Devices for the transmission of voices shall be so directed or muffled as to prevent sound from being audible beyond the boundaries of the site.

(8) *Prohibited uses.* Sales of alcoholic beverages shall be prohibited through any drive-through window.

(9) *Drive-through window location.* Any drive-through window, as defined in article II, shall be located at least thirty-five (35) feet from any lot line.

(b) *Drive-through restaurants.* In addition to the provisions of chapter 16, article III, of the City's Code of Ordinances and the provisions of subsection (a), the following shall apply to all drive-through restaurants:

(1) *Illumination.* The parking area of any drive-through restaurant shall be adequately illuminated. Such illumination shall be arranged so as to reflect away from any adjoining residential area.

(2) *Menu boards.* Menu boards may be erected as an accessory use to a drive-through lane for a restaurant, subject to the following:

a. Such signs shall be located on the interior of the lot and shall be shielded so that they are not visible from street rights-of-way and abutting residential districts or uses.

b. The location, size, content, coloring, or manner of illumination of a menu board shall not constitute a traffic or pedestrian hazard, or impair vehicular or pedestrian traffic flow in any manner.

c. Each menu board shall not exceed six (6) feet in height and forty-eight (48) square feet in sign area.

(Ord. No. H-07-01, § 6.303, 7-24-07; Ord. No. H-07-03, § 1D, 1-8-08; Ord. No. H-13-04, § 1C, 10-8-13)

Sec. 36-184. Gas stations, service stations, and automotive repair garages.

(a) *Intent.* In order to regulate and control the problems of noise, odor, light, fumes, vibration, dust, danger of fire and explosion, and traffic congestion which result from the unrestricted and unregulated construction and operation of gas stations, service stations, and automotive repair garages, and to regulate and control the adverse effects that these and other problems incidental to such uses may exercise upon adjacent and surrounding areas, the following regulations and requirements are provided herein for gas stations, service stations, and automotive repair garages located in any zoning district.

(1) *Applicability.* All gas stations, service stations, and automotive repair garages erected after the effective date of this section or any amendment thereafter shall comply with all requirements of this section. No gas station, service station, or automotive repair garage existing on such date shall be structurally altered so as to provide a lesser degree of conformity with the provisions of this section than existed on such date.

(b) *Minimum lot width.* A gas station, service station, or automotive repair garage shall be located on a lot having not less than sixty (60) feet of frontage along a major thoroughfare.

(c) *Separation from incompatible uses.* No gas station, service station, or automotive repair garage shall be located nearer than five hundred (500) feet as measured from any point on the property line to any church, public or private school, or playground.

(d) *Setbacks.* In addition to the requirements below, all canopies, fuel pumps, and pump islands shall be located no closer than forty (40) feet to property zoned or used for residential purposes.

(1) All buildings shall comply with the setback requirements for the district in which the use is located.

(2) Pump island canopies shall be set back a minimum of twenty (20) feet from any right-of-way line.

(3) Fuel pump islands shall be set back a minimum of thirty (30) feet from any right-of-way line.

(e) *Layout.* All lubrication equipment, motor vehicle washing equipment, hydraulic hoists, and pits shall be enclosed entirely within a building. All gasoline pumps shall be located not less than fifteen (15) feet from any lot line and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or overhanging any landscaped area, sidewalk, street, or adjoining property.

(f) *Ingress and egress.*

(1) The nearest edge of any drive shall be located at least twenty-five (25) feet from the nearest point of any property zoned or used for residential purposes.

(2) No driveway shall be located closer than thirty (30) feet, as measured along the property line, to any other access drive to the same site.

(3) Curb openings for access drives shall not be permitted where the drive would create a safety hazard or traffic nuisance because of its location in relation to other ingress and egress drives, its location in relation to the traffic generated by other buildings or uses or adjacent to pedestrian crossings.

(g) *Curbs.* Except for access drives, a curb of at least six (6) inches in height shall be installed to prevent vehicles from being driven onto or parked with any part of the vehicle extending within two (2) feet of abutting landscaped areas, sidewalks, streets, buildings, or adjoining property.

(h) *Lot paving.* The entire lot, excluding the area occupied by a building, shall be hard-surfaced with concrete or a plant-mixed bituminous material, or, if any part of the lot is not so surfaced, then that area shall be landscaped and separated from all paved areas by a low barrier or curb.

(i) *Screening.*

(1) *Adjacent to rights-of-way.* Any gas station, service station, or automotive repair garage shall be screened from all street rights-of-way in accordance with subsection 36-392(e), Screening.

(2) *Adjacent to residential uses.* Where a gas station, service station, or automotive repair garage adjoins any property located in any residential zone, or is separated from any such property by a public alley only, a decorative masonry wall six (6) feet in height shall be erected and maintained along the common lot line or along the alley lot line. All masonry walls shall be protected by a fixed curb or barrier to prevent vehicles from contacting the wall.

(j) *Overhead doors.* Overhead doors shall not face residential districts or uses. The planning commission may modify this requirement upon determining that there is no reasonable alternative and that adequate screening has been provided per subsection 36-392(e), Screening.

(k) *Exterior lighting.* All exterior lighting, including illuminated signs, shall be erected and hooded or shielded so as to be deflected away from adjacent and neighboring property.

(1) *Pump island canopy lighting.* All lighting fixtures under the canopy shall be fully recessed into the canopy structure. A maximum illumination intensity of 10.0 footcandles shall be permitted under the canopy.

(l) *Noise and odors.* There shall be no external evidence of service and repair operations, in the form of dust, odors, or noise, beyond the interior of any automotive service building. Building walls facing any residential districts or uses shall be of masonry construction with soundproofing.

(m) *Temporary vehicle storage.* The storage, sale, rental or display of new or used cars, trucks, trailers, and any other vehicles, vehicle components and parts, materials, commodities, supplies or equipment on the premises is prohibited except in conformance with the requirements of this section and ordinance.

(1) Inoperable vehicles shall not be stored or parked outside of a service station. Inoperable vehicles may be stored or parked outside an automotive repair garage. Outdoor storage of inoperable vehicles shall be prohibited at any gas station.

(2) Partially dismantled vehicles, damaged vehicles, new and used parts, and discarded parts shall be stored within a completely enclosed building.

(n) *Accessory uses.* Accessory retail and restaurant uses shall conform to the standards for such uses, as specified in this ordinance.

(o) *Traffic.* A traffic impact study may be required by the planning commission, per subsection 36-495(11), Transportation impact studies.

(p) *Use restrictions.*

(1) *Approved containers.* No gasoline or flammable liquid shall be kept or conveyed in open receptacles or in glass bottles or other breakable containers on the premises of a gas station, service station, or automotive repair garage, except in glass bottles of not more than eight (8) ounces capacity used for sample purposes, and shall not be used for cleaning purposes on such premises.

(2) *Pump location.* No gasoline pump shall be installed in any building.

(3) *Approved fuel hoses.* No fuel tank shall be filled at a gas station or service station except through a hose connected to a pump of a type approved by the Underwriters' Laboratories, Incorporated.

(4) *Disposal of hazardous materials.* All combustible waste and rubbish, including crankcase drainings, shall be kept in metal receptacles fitted with a tight cover until removed from the premises. No gasoline, oil, grease, or flammable liquid shall be allowed to flow into or be placed in the drainage system. Oil and grease shall not be allowed to accumulate on the floor. Sawdust shall not be kept in any gas station, service station, automotive repair garage, or place of storage therein, and sawdust or other combustible material shall not be used to absorb oil, grease, or gasoline.

(5) *Compliance with city inspectors.* All gas station, service station, or automotive repair garage proprietors and attendants, upon being notified by any city inspector of the presence of gasoline or volatile liquids in sewers, shall cooperate in ascertaining the reason therefor.

(6) *Fire protection.* There shall be constantly maintained in good working order at least two (2) two-and-one-half-gallon fully charged portable foam-type fire extinguishers at each gas station, service station, or automotive repair garage.

(Ord. No. H-07-01, § 6.304, 7-24-07; Ord. No. H-10-07, § IVA, 11-23-10; Ord. No. H-13-04, § 1C, 10-8-13)

Secs. 36-185—36-190. Reserved.

DIVISION 4. INDUSTRIAL USES

Sec. 36-191. Accessory retail and services uses.

In certain businesses, the accessory use is an integral part of the overall business operation, such that the business takes on the character of a "mixed use". In these cases, the specific guidelines provided in this section determine if the accessory use is reasonable and should be permitted.

(1) *Accessory retail or service uses in industrial districts.*

a. Accessory retail or service uses that are intended to serve the occupants and patrons of the principal use shall be an incidental use occupying no more than five (5) percent of a building that accommodates a principal permitted use. Permitted accessory retail and service uses shall be limited to the following:

1. Retail establishments that deal directly with the consumer and generally serve the convenience shopping needs of workers and visitors, such as convenience stores, drug stores, uniform supply stores, or similar retail businesses.

2. Personal service establishments which are intended to serve workers or visitors in the district, such as dry cleaning establishments, travel agencies, tailor shops, or similar service establishments.

3. Restaurants, cafeterias, or other places serving food and beverages for consumption within the building.

4. Financial institutions, including banks, credit unions, and savings and loan associations.

b. Accessory retail sales of products produced on the premises and products similar to those produced on the premises shall be permitted subject to the following conditions:

1. *Character of the principal use.* The principal use on the site must be industrial in character. Accordingly, there shall be no outside displays of any kind.

2. *Percent of floor area.* The retail activity shall occupy no more than twenty (20) percent of total floor area or five hundred (500) square feet, whichever is less.

3. *Ratio of products produced on-premises vs. off-premises.* The volume of products offered for sale and produced on the premises shall exceed the volume of products offered for sale and produced off the premises. In making this determination, measurements can be based on total occupied floor area or total number of units offered for sale.

4. *Special land use.* Accessory retail sales in an industrial district shall be subject to special land use approval, pursuant to article XIV, division 3.

(2) *Industrial uses in commercial districts.* Industrial, processing, and warehouse uses shall be deemed acceptable accessory uses in commercial districts if the following criteria are met:

a. *Character of the "industrial" use.* Assembly, fabrication, manufacturing, and warehouse activities shall be directly related to the specific products or services permitted as principal use on the site.

b. *Limits of industrial activity.* Any products manufactured or produced shall not be for distribution to other retail stores or manufacturing facilities.

c. *Types of equipment.* Heavy machinery typically found in manufacturing or industrial plants shall not be permitted. The machinery shall not create dust, noise, odor, vibration or fumes that would cause an adverse impact on neighboring properties.

d. Percent of floor area. The industrial activity shall occupy no more than twenty (20) percent of total floor area.

e. *Compatibility of traffic.* The type of and quantity of traffic generated by the industrial activity shall be compatible with permitted retail uses in the district.

f. *Outside activity prohibited.* Industrial activity, if permitted, shall be located within a completely enclosed building. There shall be not outside storage, except as specifically permitted in the district in which the use is located.

(Ord. No. H-07-01, § 6.401, 7-24-07)

Sec. 36-192. Hazardous materials storage.

Hazardous materials storage facilities, including bulk fuel sales, shall be subject to the following:

(1) *Compliance with outside agency standards.* Such uses shall comply with current standards established by the U.S. Environmental Protection Agency, the U.S. Department of Agriculture, State of Michigan, county health department, and other county, state or federal agencies with jurisdiction.

(2) *Application information.* The applicant shall supply the following documentation with any plan submitted for review:

a. *Discharge.* Description of all planned or potential discharge of any type of wastewater to a storm sewer, drain, lake, stream, wetland, other surface water body or into the groundwater.

b. *Data sheets.* MSDS (material safety data sheet) information shall be provided to the city for all types of hazardous materials proposed to be stored on-site, including common name, name of chemical components, location, maximum quantity expected on hand at any time, type of storage containers or base material, and anticipated procedure for use and handling.

c. *Work with materials.* Description of any transportation, on-site treatment, cleaning of equipment, and storage or disposal of hazardous waste or related containers.

d. *Containment.* Description of any secondary containment measures, including design, construction materials and specifications, and security measures.

e. *Records.* Description of the process for maintaining and recording of shipping manifests.

(3) *Setbacks and screening.* Such uses shall be set back a minimum of five hundred (500) feet from any residential district or use. Such uses shall be screened from all street rights-of-way and abutting residential districts or uses in accordance with subsection 36-392(e), Screening.

(4) *Parking and loading.* All parking, loading, and maneuvering space shall be contained within the site. Special consideration shall be given to any potential loading and unloading nuisances on surrounding properties.

(5) *Impact assessment.* The proposed use may have significant impacts upon the environment, traffic, infrastructure, or demands for public services that potentially exceed anticipated impacts of other uses permitted in the district. All proposed establishments that include the storage of hazardous materials shall submit a complete, signed industrial activity statement, according to the provisions of section [36-342], industrial activity statement.

The industrial activity statement shall include proposed mitigation measures to be employed, which shall be subject to planning commission approval. The city reserves the right to hire experienced professionals to evaluate the industrial activity statement and prepare additional analyses to ensure public health and safety, with the cost borne by the applicant.

(Ord. No. H-07-01, § 6.402, 7-24-07)

Sec. 36-193. Intensive industrial operations.

Any industrial operation of unusual intensity or with the potential for significant negative impacts on surrounding uses shall be subject to the following:

(1) *C3, Commercial district standards.* Any intensive industrial operation including automobile manufacturing, located in the C-3 district shall be limited to a maximum land area of five (5) acres.

(2) *Setbacks and screening.* Such uses shall be set back a minimum of five hundred (500) feet from any residential district or use. Such uses shall be screened from all street rights-of-way and abutting residential districts or uses in accordance with subsection 36-392(e), Screening.

(3) *Parking and loading.* All parking, loading, and maneuvering space shall be contained within the site. Special consideration shall be given to any potential loading and unloading nuisances on surrounding properties.

(4) *Impact assessment.* The proposed use may have significant impacts upon the environment, traffic, infrastructure, or demands for public services that potentially exceed anticipated impacts of other uses permitted in the district. All proposed establishments that include the storage of hazardous materials shall submit a complete, signed industrial activity statement, according to the provisions of section 36-342, Industrial activity statement.

The industrial activity statement shall include proposed mitigation measures to be employed, which shall be subject to planning commission approval. The city reserves the right to hire experienced professionals to evaluate the industrial activity statement and prepare additional analyses to ensure public health and safety, with the cost borne by the applicant.

(Ord. No. H-07-01, § 6.403, 7-24-07; Ord. No. H-10-07, § IVB, 11-23-10)

Sec. 36-194. Junkyards; salvage yards.

(a) *Minimum lot size.* The minimum lot size for any junkyard, salvage yard, outdoor junk storage, dismantling, or recycling areas shall be ten (10) acres.

(b) *Location.* Such uses shall be located not less than one thousand (1,000) feet from any residential district.

(c) *Screening.* Junkyards shall be screened on all sides with a fifty-foot wide greenbelt, planted according to subsection 36-392(d), Greenbelts. A six-foot-high obscuring masonry wall shall be located at the interior boundary of the greenbelt. The wall shall be uniformly painted and maintained in a neat appearance and shall not have any signs or symbols painted on it.

(d) *Surfacing.* All roads, driveways, parking lots, and loading and unloading areas shall be paved and provided adequate drainage.

(e) *Permits.* All required city, county, and state permits shall be obtained prior to establishing, expanding, or altering such uses.

(f) *Use standards.* The applicant must demonstrate that the activities of the junkyard will comply with all state and federal regulations, the requirements of this chapter, and the following:

(1) No junk vehicles or scrap materials shall be stored above the height of the required wall. Vehicle parts shall not be stored, loaded, unloaded, or dismantled outside the wall enclosing the yard.

(2) Vehicles or vehicle bodies shall be stored in rows with a minimum twenty-foot wide continuous loop drive separating each row of vehicles.

(3) All batteries shall be removed and all radiator and fuel tanks drained prior to placing the vehicle in the storage yard. A licensed disposal company shall remove salvaged batteries, oil, and other hazardous substances.

(4) No vehicle, vehicle bodies, or other materials shall be stored in a manner as to be visible from any residence, business, or street.

(5) The crushing of vehicles or any part thereof shall be limited to daylight hours. All processes involving the use of equipment for cutting or compressing shall be conducted within a completely enclosed building.

(6) All junkyards and salvage yards shall be subject to periodic inspection by the city to ensure continuing compliance with the above standards.

(7) There shall be no burning on site.

(8) The total lot area occupied by on-site tire storage or disposal facilities shall be limited to a maximum of five (5) percent of the net lot area of the site. All tires stored on-site for more than seventy-two (72) hours shall be cut into pieces to prevent collection of stagnant water.

(Ord. No. H-07-01, § 6.404, 7-24-07)

Sec. 36-195. Outdoor storage.

(a) *Setbacks.* Any outdoor storage area shall comply with the minimum setback requirements for the district in which the use is located, and no storage shall be permitted in the front yard.

(b) *Screening.* Storage areas shall be screened from all street rights-of-way and abutting uses in accordance with subsection 36-392(e), Screening.

(1) *Additional height.* The planning commission may permit the use of a screen wall up to ten (10) feet or fence up to eight (8) feet in height, upon determination that the additional height is necessary to adequately screen the proposed use.

(2) *Compatibility.* All screening of outdoor storage areas must be compatible with the district in which the use is located.

(c) *Use standards.* All outdoor storage areas shall further comply with the following:

(1) No materials shall be stored above the height of the required wall or fence.

(2) No junk or junk vehicles shall be stored, and no trailer, manufactured home, or truck trailer shall be stored or used for storage.

(3) Stored materials shall be contained to prevent blowing of materials or dust upon adjacent properties and access by small animals. The planning commission may require stored materials to be covered and may impose additional conditions upon the use to minimize adverse impacts on adjacent uses.

(4) The planning commission may require outside storage areas to be paved or surfaced with hard surface material and may require installation of a storm water drainage system.

(d) In order to prevent the oversaturation of outdoor storage areas within the local market, to help maintain an inventory of building sites suitable for diverse businesses, and to promote the aesthetic appeal of the city's commercial corridors, no outdoor storage area may be located closer than one thousand (1,000) feet from another outdoor storage area.

(Ord. No. H-07-01, § 6.405, 7-24-07; Ord. No. H-16-01, § 1C, 10-11-16)

Sec. 36-196. Rustproofing and undercoating shops.

(a) *Minimum lot size.* All rustproofing, undercoating, and similar automotive maintenance establishments shall have a minimum lot area of fourteen thousand (14,000) square feet.

(b) *Frontage.* All rustproofing, undercoating, and similar automotive maintenance establishments shall have a minimum frontage of one hundred forty (140) feet along a major thoroughfare.

(c) *Screening.* A six-foot high masonry wall shall be constructed along any rear or interior side lot line wherever vehicles are parked outdoors.

(d) *Use standards.*

(1) No refuse or waste material may be drained into a city sewer. All hazardous materials must be disposed of using customary approved methods and in such a manner as to protect the natural environment and public health.

(2) All rustproofing, undercoating, and similar automotive maintenance establishments must comply with the performance standards of section 36-341, Performance standards.

(Ord. No. H-07-01, § 6.406, 7-24-07)

Sec. 36-197. Self-storage facilities.

(a) *Lot size.* The minimum size of a lot used for a self-storage facility shall be five (5) acres.

(b) *Lot coverage.* The maximum coverage of all buildings on the lot may not exceed thirty-five (35) percent.

(c) *Access.*

(1) All ingress and egress from the site shall be directly onto a major thoroughfare.

(2) Access to the self-storage facility premises shall be restricted to tenants only, by use of an attendant, mechanical or electronic locking devices or other entrance-control device.

(d) *Setbacks.*

(1) All buildings and structures shall be set back a minimum of twenty (20) feet from any lot line. Separation between self-storage buildings on the same site shall be at least twenty-five (25) feet in any direction.

(2) No building or structure shall be located closer than one hundred fifty (150) feet from any abutting property zoned or used for residential purposes.

(3) A self-storage facility shall not be directly adjacent to property zoned or used for residential purposes on more than one (1) side.

(e) *Circulation.*

(1) All access aisles, parking areas, and walkways on the site shall be graded, drained, hard-surfaced, and maintained in accordance with the standards and specifications of the city.

(2) Driveways between buildings shall be designed with one (1) ten-foot wide loading/unloading lane and one (1) fifteen-foot travel lane. Other internal circulation routes shall be at least twenty-four (24) feet in width.

(f) *Building dimensions.*

(1) The maximum length of any self-storage building shall be two hundred fifty (250) feet.

(2) No single-story self-storage building shall exceed fifteen (15) feet in height. One office building and/or caretaker's quarters may be allowed up to twenty-five (25) feet in height.

(g) *Exterior appearance.* The exterior of any building associated with a self-storage facility, including storage buildings and a caretaker's residence, shall be of finished quality and design, subject to planning commission approval.

(1) All buildings shall have pitched roofs with gables. Flat-roof building with appropriate architectural design considerations may be considered by the planning commission as an alternative.

(2) Buildings shall be oriented so that doors to storage units do not face toward the road, unless such doors will be completely screened from view from the road.

(3) If a manager's office or caretaker's residence is proposed, it shall be located in front to screen the storage units. Fences or walls shall project no closer to the front of the site than the front of any such office or residence.

(h) *Screening.* The entire site shall be enclosed on all sides by a six-foot chain-link fence, except where adjacent to property zoned or used for residential purposes, in which case requirements at subsection 36-392(e), Screening apply. Any screening used must be sufficient to prevent access to the site except through a monitored gate or door.

(i) *Use standards.* Except as provided herein, the use of the premises shall be limited to storage only and shall not be used for operating any other business; for maintaining or repairing of any vehicles, recreational equipment or other items; or for any recreational activity, hobby, or purpose other than the storage of personal items and business items.

(1) *Permitted uses.*

a. Storage of household goods and non-hazardous commercial goods.

b. *Retail sales.* Limited retail sales to tenants of products and supplies incidental to the principal use, such as packing materials, packing labels, tape, rope, protective covers, and locks and chains shall be permitted on the site devoted to this use.

c. *Manager's office or caretaker's residence.* A manager's office or caretaker's residence shall be permitted accessory to a self-storage warehouse, in accordance with the following:

1. A manager's office shall be an integral part of either a storage building or a caretaker's residence.

2. An accessory dwelling unit within the principal building shall be subject to the requirements of section 36-141, Accessory dwellings.

3. A detached single-family dwelling located on the same lot with the principal use shall be subject to the requirements of section 36-149, Single-family and two-family dwellings, and the area, height, and bulk requirements for the R1-60, single-family residential district as specified in article V, district regulations.

(2) *Prohibited uses.*

a. *Outdoor storage.* No storage of property or vehicles outside of the self-storage buildings shall be permitted.

b. *Vehicle sales or rental.* There shall be no retail sales or rental of vehicles either from within or outside of a storage building.

c. *Hazardous materials.* No separate storage of combustible or flammable liquids, combustible fibers, toxic materials, or explosive materials as defined in the fire prevention code shall be permitted within the self-storage buildings or upon the premises.

1. A lease agreement between the lessee and lessor shall state that no flammable, combustible or toxic material shall be stored or used on premises, and that the property shall be subject to periodic and unannounced inspections for flammable, toxic, and other hazardous materials by city officials.

(j) *Fire control.* Fire hydrants and fire suppression devices shall be provided, installed, and maintained in compliance with the city's fire control measures.

(Ord. No. H-07-01, § 6.407, 7-24-07)

Sec. 36-198. Warehouses, other storage facilities, and truck terminals.

(a) *Access.* Vehicle access to local streets shall be prohibited.

(b) *Setbacks.* Truck terminals and any loading dock area shall be set back a minimum of two hundred (200) feet from any residential district or use.

(c) *Traffic.* A traffic impact study may be required by the planning commission, per subsection 36-395(11), Transportation impact studies.

(d) *Parking and loading.* All parking, loading, and maneuvering space shall be contained within the site. Special consideration shall be given to any potential loading and unloading nuisances on surrounding properties.

(e) *Screening.* Truck and trailer parking areas shall be screened from all street rights-of-way and abutting uses, and screening shall be required on side or rear lot lines abutting a residential district or use, in accordance with subsection 36-392(e), Screening.

(Ord. No. H-07-01, § 6.408, 7-24-07)

Secs. 36-199—36-210. Reserved.

DIVISION 5. INSTITUTIONAL AND RECREATION USES

Sec. 36-211. Cemeteries.

(a) *Access.* Sites shall have frontage on a major thoroughfare. Vehicle access to local streets shall be prohibited.

(b) *Screening.* The cemetery shall be screened from abutting residential districts or existing residential uses, and secured by a continuous fence or wall, per subsection 36-392(e), Screening.

(c) *Setback.* All crypts, mausoleums, and other buildings containing bodies or remains, other than a subterranean grave, shall be located at least one hundred (100) feet from the nearest lot boundary.

(d) *Continuity.* The location of such facility shall not disrupt the convenient provision of utilities to adjacent lots.

(e) *Master plan.* Any crematorium, mausoleum, columbarium, or other building shall be designed and located in accordance with a cemetery master plan, which shall be subject to planning commission approval.

(f) *Compliance.* An approved cemetery shall comply with all federal, state and local laws, and applicable regulations of the State of Michigan.

(Ord. No. H-07-01, § 6.501, 7-24-07)

Sec. 36-212. Churches and other places of worship.

(a) *Minimum lot width and area.* A church or other place of worship shall be located on a lot having a width of not less than one hundred fifty (150) feet and having an area of not less than two (2) acres.

(b) *Access.* Sites shall have frontage on a major thoroughfare. Vehicle access to local streets shall be prohibited.

(c) *Parking setback.* Off-street parking shall be prohibited in the front setback area and within fifteen (15) feet of the rear or side lot line.

(d) *Building setback.* All buildings shall be set back a minimum of seventy-five (75) feet from the front lot line and twenty-five (25) feet from the side or rear lot line.

(e) *Landscaping.* Churches and other places of worship shall comply with the landscaping requirements for nonresidential uses in residential areas.

(Ord. No. H-07-01, § 6.502, 7-24-07)

Sec. 36-213. Golf courses and country clubs; par-3 golf courses.

(a) *Lot size.* Regulation length eighteen-hole golf courses shall have a minimum lot size of one hundred sixty (160) acres, of which a minimum of one hundred ten (110) acres of usable land shall be allocated in fairways, roughs, and greens. Nine-hole courses with regulation length fairways shall have a minimum lot size of ninety (90) acres. Eighteen-hole par-3 courses shall have a minimum lot size of fifty (50) acres.

(b) *Setbacks and fairway width.* The principal and accessory buildings shall be set back at least one hundred (100) feet from all property lines. Fairways and driving ranges shall have sufficient width and shall be oriented in such a manner and set back a sufficient distance to prevent golf balls from being hit outside the perimeter of the golf course. The minimum width for fairways shall be one hundred (100) yards, subject to review by the planning commission. Fairways shall be designed so that existing or future dwelling units are located a minimum of two hundred (200) feet from the center of the fairway.

(c) *Access.* Golf courses and country clubs shall have direct access onto a major thoroughfare.

(d) *Shelter buildings.* At least one (1) shelter building with toilet facilities shall be provided per nine (9) holes. The shelter shall meet all applicable state and local health and building code requirements.

(e) *Special use requirements for outdoor recreation facilities.* Golf courses shall comply with the requirements for outdoor recreation facilities in section 36-217.

(Ord. No. H-07-01, § 6.503, 7-24-07)

Sec. 36-214. Golf driving ranges.

(a) *Lot size.* The minimum lot size for a driving range shall be five (5) acres.

(b) *Minimum dimensions and setbacks.* Driving ranges shall have sufficient width and length and shall be designed in such a manner as to prevent golf balls from being hit outside the perimeter of the driving range.

(1) *Range length.* The minimum length of the driving range shall be three hundred fifty (350) yards, measured from the tee to the end of the range.

(2) *Tee setbacks.* Tees shall be set back at least fifty (50) yards from each side property line, unless the applicant can demonstrate that golfers will be oriented toward the center of the range so that golf balls will not be hit beyond the side property lines.

(c) *Screening or slopes.* The planning commission may require a landscaped buffer or fencing along the perimeter to screen the driving range from adjacent properties or to prevent balls from being hit outside of the driving range. Screening shall comply with the standards in subsection 36-392(e), Screening. The planning commission may also require that the sides of the driving range slope upward and be rough mowed so as to intercept stray golf balls.

(d) *Special use requirements for outdoor recreation facilities.* Driving ranges shall comply with the requirements for outdoor recreation facilities in section 36-217.

(Ord. No. H-07-01, § 6.505, 7-24-07)

Sec. 36-215. Hospitals.

(a) *Minimum lot area.* The minimum lot size for hospitals shall be two (2) acres.

(b) *Frontage and access.* Hospitals shall have frontage on, and direct vehicle access to a major thoroughfare. In no case shall access to a hospital be off a residential street.

(c) *Setbacks.* The principal building and all accessory buildings shall be set back a minimum of fifty (50) feet from all property lines. The minimum setback shall be increased twenty (20) feet for each story in excess of two (2) stories.

(d) *Accessory uses.* Accessory uses, such as a pharmacy, gift shop, cafeteria, place of worship, and similar uses, shall be allowed within the principal building to serve the needs of patients, employees, and visitors.

(e) *Screening.* Ambulance parking, emergency room and urgent care entrances, and loading areas shall be effectively screened from adjacent residential districts or existing residential uses per subsection 36-392(e), Screening.

(f) *State and federal regulations.* Hospitals shall be constructed, maintained, and operated in conformance with applicable state and federal laws.

(Ord. No. H-07-01, § 6.505, 7-24-07)

Sec. 36-216. Indoor recreation facilities.

(a) *Setbacks.* Indoor recreation uses shall be set back a minimum of one hundred (100) feet from any property line.

(b) *Access.* Indoor recreation uses shall have direct access onto a major thoroughfare.

(c) *Adverse impacts.* The location, design, and operation of an indoor recreation use shall not adversely affect the continued use, enjoyment, and development of adjacent properties. In considering this requirement, particular attention shall be focused on the adverse impact resulting from loitering on the premises.

(d) *Arcades as accessory uses.* Amusement arcades accessory to an indoor recreation facility shall comply with the following requirements:

(1) The arcade facilities shall be clearly incidental to the principal use on the site.

(2) The arcade facilities shall be accessible only from within the building which contains the principal use. The arcade shall have no direct means of access to the exterior of the building.

(3) The arcade shall operate only during the hours when the principal use is open for business.

(4) Where arcades are permitted as an accessory use to an eating or drinking establishment or private club or lodge, there shall be no more than one (1) arcade for each thirty (30) persons permitted at one (1) time, based on the occupancy load established by local code.

(Ord. No. H-07-01, § 6.506, 7-24-07)

Sec. 36-217. Outdoor recreation facilities.

(a) *General requirements.*

(1) *Setbacks.* Principal and accessory buildings shall be set back at least one hundred (100) feet from all property lines, unless otherwise specified herein.

(2) *Access.* Outdoor recreation uses shall have direct access onto a major thoroughfare.

(3) *Impact on surrounding properties.* The location, layout, design, or operation of outdoor recreation facilities shall not impair the continued enjoyment, use, and future orderly development of adjacent and nearby properties. The planning commission may specify the hours of operation in order to assure compatibility with adjacent uses.

(4) *Nuisance impacts.* Outdoor recreation uses shall not generate excessive noise, odors, dust, or other impacts, such that the continued use and enjoyment of adjacent properties would be impaired.

(5) *Parking.* All parking for outdoor recreation uses shall be provided in off-street parking lots, which shall be designed in accordance with section 36-366, Design requirements.

(6) *Lighting.* Lighting for outdoor recreation uses shall comply with the requirements in article XII, Exterior lighting.

(7) *Screening.* Outdoor recreation uses shall be screened from view from adjacent property zoned or used for residential purposes, in accordance with subsection 36-392(e), Screening.

(8) *Accessory retail facilities.* Accessory retail or commercial facilities, such as food and beverage facilities or equipment shops, shall be designed to serve only the patrons of the outdoor recreation facility, unless otherwise listed as a permitted use in the district in which the facility is located.

(b) *Swimming pools.* Any outdoor swimming pool shall be subject to the following:

(1) *Enclosure.* Outdoor swimming pools in single-family districts shall be enclosed within a four-foot high fence; a six-foot high fence shall be required in all other districts. Entry shall be by means of a self-closing, self-latching gate. The latch shall be on the inside so that it is not readily available for children to open. Gates shall be securely locked when the pool is not in use.

(2) *Setbacks.* Swimming pools in single-family districts shall comply with the front and side setback requirements for the district in which they are located, and shall be located no closer than ten (10) feet to the rear property line. In all other districts swimming pools shall be set back a minimum distance of sixty (60) feet from all property lines. In no case shall a swimming pool be located in an easement or right-of-way.

(3) *Distance from buildings.* Swimming pools shall be located a minimum of four (4) feet from any building on the same parcel. Swimming pools in single-family districts shall be located a minimum of thirty-five (35) feet from the nearest edge of a residence on an adjoining lot.

(4) *Swimming pool clubs.* Swimming pool clubs in residential districts shall be incorporated as nonprofit organizations and shall be maintained and operated for the exclusive use of members and their guests.

Membership shall be limited by subdivision or another clearly-defined geographic area as specified in the club's articles of incorporation.

(Ord. No. H-07-01, § 6.507, 7-24-07)

Sec. 36-218. Public utility buildings.

(a) *Screening.* The type and amount of screening required for public utility facilities, including telephone exchanges, electric transformer stations and substations, gas regulator stations, and water or wastewater treatment plants, shall be subject to approval by the planning commission based on an analysis of the potential effects of the use on surrounding property.

(b) *Outdoor storage.* No outdoor storage yards shall be permitted in any residential or commercial district.

(c) *Necessity.* The application for the public utility use must include evidence of the necessity for the use at the proposed location.

(Ord. No. H-07-01, § 6.508, 7-24-07)

Sec. 36-219. Theaters; assembly halls.

(a) *Access.* Sites shall have frontage on a major thoroughfare. Vehicle access to local streets shall be prohibited.

(b) *Screening.* Screening shall be provided in accordance with subsction 36-392(e), Screening, where the site abuts a residential district or use.

(c) *Traffic impacts.* A traffic impact study may be required by the planning commission, per subsection 36-395(11), Transportation impact studies, for facilities that have a seating capacity of over five hundred (500) persons.

(Ord. No. H-07-01, § 6.509, 7-24-07)

Secs. 36-220—36-230. Reserved.

DIVISION 6. OTHER USES

Sec. 36-231. Adult regulated uses.

(a) All adult regulated uses, as defined in section 36-37, Definitions, shall be subject to the following:

(1) *Site location.* Adult regulated uses are prohibited from locating within one thousand (1,000) feet of a residential zoning district, a church or other place of worship, a school or licensed day care facility, or an existing adult regulated use within the city or surrounding jurisdictions. Measurement shall be made from the edge of the building in which the proposed adult regulated use will be operated.

(2) *Site development requirements.*

a. *Compatibility with surroundings.* The site layout, setbacks, structures, function, and overall appearance shall be compatible with adjacent uses and structures.

b. *Signs and displays.* The building and premises shall be designed and constructed so that material depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined in section 36-37, Definitions, cannot be observed by pedestrians or from vehicles on

any public right-of-way. This provision shall apply to any display, decoration, sign, show window, or other opening. All displays and signs shall be in conformance with this chapter.

c. *Doors and windows.* All building entries, windows, and other such openings shall be located, covered, or screened in such a manner as to prevent viewing into the interior from any public or semi-public area as determined by the planning commission.

d. *Noise.* No loudspeakers or sound equipment shall be permitted to project sound anywhere outside of a building or structure on the site.

e. *Notice of exclusion of minors.* An adult regulated use shall clearly post notification at the entrance to the business, or any portion of the business utilized for adult only use, that minors are excluded.

f. *Freestanding building required.* An adult regulated use shall be located in a freestanding building. A shared or common wall structure or shopping center is not considered to be a freestanding building.

g. *Cabaret stages.* Adult cabarets (as defined in section 36-37, Definitions) are required to include a stage raised at least three (3) feet from the viewing floor, with a barrier of at least two (2) feet at the edge of the stage. A person is in violation of the ordinance if he or she permits an entertainer off of the stage or permits a customer on the stage.

(3) *Use regulations.*

a. *Residential use prohibited.* No person shall reside in or permit a person to reside in the premises of an adult regulated use.

b. *Posted notice of services.* No person shall operate an adult regulated use unless there is conspicuously placed, in a room where such business is carried on, a notice indicating the process for all services performed therein. No person operating or working at such a place of business shall solicit or accept any fees except those indicated on any posted notice.

c. *Minors restricted.* The owners, operators, or persons in charge of an adult regulated use shall not allow entrance into such building or any portion of a building used for such use to any person under the age of eighteen (18) years.

d. *Permits required.* No person shall operate an adult entertainment use or sexually oriented business without obtaining a current zoning and building occupancy permit. Such licenses shall be issued by the city following an inspection to determine compliance with the relevant ordinances of the city. Such license shall be subject to all regulations of federal, state, and local governments.

e. *Leasing.* No person shall lease or sublease, nor shall anyone become the lessee or sub-lessee of, any property for the purpose of using said property for an adult regulated use without the express written permission of the owner of the property for such use and only upon having obtained the appropriate licenses and permits from the city, the county, and the State of Michigan.

(4) *Limit on reapplication.* No application for an adult regulated use that has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of the order of denial, except on the grounds of new evidence not previously considered or proof of a change in conditions from the original request.

(b) *Uses not interpreted as adult regulated uses.* The following uses shall not be interpreted as included within the definition of adult regulated uses or sexually-oriented businesses:

(1) Hospitals, nursing homes, medical clinics, or medical offices.

(2) Establishments that provide services, as the principal use, by a licensed physician, chiropractor, physical therapist, nurse practitioner, or any similarly licensed or certified medical professional.

(3) Establishments that offer massages performed exclusively by certified massage therapists, subject to section 36-172, Therapeutic massage.

(4) Electrolysis treatment by a licensed operator of electrolysis equipment.

(5) Gymnasiums, fitness centers, and health clubs.

(6) Continuing instruction in martial arts, performing arts, or in organized athletic activities.

(7) Adult photography studios whose business activity does not include the taking of photographs of "specified anatomical areas," as defined in section 36-37, Definitions.

(Ord. No. H-07-01, § 6.601, 7-24-07)

Sec. 36-232. Kennels.

The following regulations shall apply to kennel establishments that are not part of a licensed veterinary/animal clinic operation:

(1) *Private kennels.* Private kennels to house only the animals owned by the occupant of the dwelling unit shall be permitted subject to the following:

a. *Lot size.* The lot on which any such kennel is located shall be a minimum of one (1) acre in size.

b. *Number of animals.* No more than six (6) animals over the age of six (6) months shall be housed in a private kennel.

c. *Breeding.* Breeding of animals shall be restricted to no more than two (2) litters per year.

d. *Setbacks.* Buildings in which animals are kept, animal runs, and exercise areas shall not be located in any required front, side, or rear yard setback area, and shall be located at least one hundred (100) feet from any dwellings or buildings used by the public on adjacent property.

e. *Kennels prohibited in subdivisions.* Regardless of lot size, private kennels shall not be permitted in platted subdivisions or site condominium developments.

(2) *Commercial kennels.* Commercial kennels shall be permitted subject to the following:

a. *Operation.* Any such kennel shall be subject to all permit and operational requirements established by county and state regulatory agencies.

b. *Lot size.* The lot on which any such kennel is located shall be a minimum of two (2) acres in size. If more than four (4) animals are housed in the kennel, an additional one (1) acre shall be required for every additional ten (10) animals (or fraction thereof).

c. *Setbacks.* Buildings in which animals are kept, animal runs, and exercise areas shall not be located in any required front, side, or rear yard setback area, and shall be located at least two hundred (200) feet from any property line.

d. *Sound control.* All animals shall be contained in a building which is fully soundproofed, using insulation, soundboards, and acoustic tile.

e. *Odor control.* Non-absorbent surfaces (such as sealed concrete or ceramic tile) shall be used throughout the kennel. Dog waste shall be power flushed or otherwise removed on a regular schedule, but no less than four (4) times daily.

f. *Kennels prohibited in subdivisions.* Regardless of lot size, commercial kennels shall not be permitted in platted subdivisions or site condominium developments.

(3) *Screening.* Structures where animals are kept, outdoor runs, and exercise areas shall be screened in accordance with subsection 36-392(e), Screening, and shall have impervious surfaces and an approved system for runoff, waste collection, and disposal.

(4) *Use standards.* Animals shall not be kept or quartered outside of the buildings between 8:00 p.m. and 8:00 a.m. All structures and ventilation systems used for kennel purposes shall be constructed to prevent noise and odors from reaching the building exterior. Kennels shall be kept clean, and waste shall be treated and handled in such a manner as to control odor and flies.

(5) *Other conditions.* Kennels and animal shelters shall be subject to all permit and operational requirements established by county and state regulatory agencies. The planning commission may impose other conditions and limitations deemed necessary to prevent or mitigate possible nuisances related to noise or odor.

(Ord. No. H-07-01, § 6.602, 7-24-07)

Sec. 36-233. Recreational vehicle storage yards.

(a) *Lot size.* The minimum lot size for RV storage yards shall be one (1) acre.

(b) *Enclosure.* Any RV storage yard shall be enclosed by a five-foot-high fence to prevent unauthorized access to the yard.

(Ord. No. H-07-01, § 6.603, 7-24-07)

Sec. 36-234. Solar energy systems.

(a) *Permit required.* All solar collectors which are to be constructed, placed, or established in the open and not contained within a building in any zoning district shall be considered structures subject to the provisions and terms of the zoning ordinance of the city; and a permit for such installation shall be obtained from the building and engineering department prior to the installation of any solar collector.

(b) *Application procedure.* Applications for a permit to install a solar collector shall be submitted to the building and engineering department. The application shall include a site plan showing the following:

(1) Size and proposed location of the solar collector, including location of any buildings on the site and on any contiguous lot,

(2) A picture or sketch of all the elements of the solar collector which would be exposed to view from adjacent properties,

(3) Dimensions of all buildings,

(4) Lot lines, and

(5) Setback lines as established in the zoning regulations.

(c) *Design standards.* Only one (1) solar collector may be permitted per lot, subject to compliance with the following design standards:

(1) *Maximum size.* Solar collectors may be not more than four (4) feet by eight (8) feet (except flush-mounted wall or roof collectors).

(2) *Maximum height.* A solar collector shall comply with height limits of the zoning district in which it is located, with the exception of flush mounted solar collectors.

(3) *Location.* A ground-mounted solar collector shall be located only in the rear yard space between the rear lot line and rear building line of the principal building on the site. A solar collector may not be located in any required side yard.

(4) *Roof mounting.* Roof installation is permitted only if the solar collector and support structures are not visible from any part of the public street right-of-way abutting the front lot line at a six-foot height of vision. Flush-mounted wall or roof collectors are exempted from this requirement.

(5) *Screening.* Ground installation on a pedestal or other type of support shall provide landscaping and fencing insofar as possible to screen the solar collector from adjacent properties.

(6) *Lot coverage.* A ground-mounted solar collector shall be considered in calculating compliance with lot coverage limits in zoning ordinance.

(7) *Enclosure of solar collectors.* All solar collectors mounted on a roof shall be totally enclosed to reduce wind dislocation and for efficiency of operation (e.g., heat loss).

(d) *Engineering approval required.* No solar energy system shall be made operational until the building and engineering director shall certify in writing that both construction plans and final construction of the solar collector meet the requirements of this section and the building code and afford safety to the public at time of high winds.

(e) *Review procedure.* All applications for installation of solar collectors shall be subject to administrative review as provided in subsection 36-493(b), Administrative review. Upon approval of the application, the building official shall issue a permit for the construction of the solar collector.

(f) *Prior nonconforming installation.* Solar collectors in existence on the effective date of this ordinance (H-07-01) and not in compliance with the provisions of this section shall be deemed to be nonconforming and shall not be moved or relocated without securing a permit for installation as provided in this section.

(Ord. No. H-07-01, § 6.604, 7-24-07)

Sec. 36-235. Temporary construction structures and uses.

(a) *Subject to approval.* Installation of temporary buildings, construction trailers, or temporary sales offices associated with construction or development projects shall be subject to zoning approval per section 36-4, Zoning compliance certificate.

(b) *Required provisions.* Adequate provisions shall be made for emergency vehicle access, off-street parking and loading, drainage, and soil erosion control.

(c) *Timing.* Temporary construction buildings shall not be erected for more than ninety (90) calendar days in any district unless a site plan has been approved by the city for the project. After site plan approval, such buildings shall not remain on the site for more than twelve (12) months. Such buildings shall be removed from the site before a final certificate of occupancy is issued for the primary building, or upon final completion of the development project as determined by the building official.

(d) *Performance guarantee.* The applicant may be required to furnish a performance guarantee, per section 36-7, Fees and performance guarantees, in an amount equal to the estimated cost of removing and disposing of the temporary buildings, construction trailers, or temporary sales offices (five hundred ($500.00) minimum). The guarantee shall be returned upon verification by the building official that the temporary construction facilities have been removed from the premises.

(Ord. No. H-07-01, § 6.605, 7-24-07)

Sec. 36-236. Wind energy.

(a) *Intent.* The purpose of this section is to establish guidelines for siting wind energy turbines (WETs). The goals are as follows:

(1) To promote the safe, effective and efficient use of a WET in order to reduce the consumption of fossil fuels in producing electricity.

(2) Preserve and protect public health, safety, welfare and quality of life by minimizing the potential adverse impacts of a WET.

(3) To establish standards and procedures by which the siting, design, engineering, installation, operation and maintenance of a WET shall be governed.

(b) *Definitions.* For purposes of this article, the following items shall be defined as stated:

(1) *Ambient sound level:* The amount of background noise at a given location prior to the installation of a WET(s) which may include, but is not limited to, traffic, machinery, lawnmowers, human activity and the interaction of wind with the landscape. The ambient sound level is measured on the dB(A) weighted scale as defined by the American National Standards Institute.

(2) *Anemometer:* Temporary wind speed indicator constructed for the purpose of analyzing the potential for utilizing a wind energy turbine at a given site. This includes the tower, base plate, anchors, cables and hardware, wind direction vanes, booms to hold equipments, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

(3) *Decommissioning:* The process of terminating operation and completely removing a WET(s) and all related buildings, structures, foundations, access roads and equipment.

(4) *Medium Wind Energy Turbine (MWET):* Tower-mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other components used in this system. The MWET has a nameplate capacity that does not exceed two hundred fifty (250) kilowatts. The total height exceeds one hundred (100) feet and the total capacity exceeds thirty (30) kilowatts. The total height does not exceed one hundred fifty (150) feet.

(5) *Nacelle:* Refers to the encasement which houses all of the generating components, gear box, drive tram and other equipment.

(6) *Net-metering:* Special metering and billing agreement between utility companies and their customers, which facilitates the connection of renewable energy generating systems to the power grid.

(7) *Operator:* Entity responsible for the day-to-day operation and maintenance of a WET.

(8) *Rotor Diameter:* Cross-sectional dimension of the circle swept by the rotating blades of a WET.

(9) *Shadow flicker:* The moving shadow, created by the sun shining through the rotating blades of a WET. The amount of shadow flicker created by a WET is calculated by a computer model that takes into consideration turbine location, elevation, tree cover, location of all structures, wind activity and sunlight.

(10) *Small tower-mounted wind energy turbine (STMWET):* Tower-mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other

components used in this system. The STMWET has a nameplate capacity that does not exceed thirty (30) kilowatts. The total height does not exceed one hundred (100) feet.

(11) *Small structure-mounted wind energy turbine (SSMWET):* Converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other components used in this system. A SSMWET is attached to a structure's roof, walls or other elevated surface. The SSMWET has a nameplate capacity that does not exceed ten (10) kilowatts. The total height does not exceed fifteen (15) feet as measured from the highest point of the roof, excluding chimneys, antennae and other similar protuberances.

(12) *Total height:* The vertical distance measured from the ground level at the base of the tower to the uppermost vertical extension of any blade, or the maximum height reached by any part of the WET.

(13) *Tower:* Freestanding monopole that supports a WET.

(14) *Wind energy turbine (WET):* Any structure-mounted, small, medium or large wind energy conversion system that converts wind energy into electricity through the use of a wind generator and includes the nacelle, rotor, tower and pad transformer, if any.

(c) *Applicability.* This section applies to all WETs proposed to be constructed after the effective date of this section. All WETs constructed prior to the effective date of this section shall not be required to meet the requirements of this section; however, any physical modification to an existing WET that materially alters the size, type, equipment or location shall require a permit under this section.

(d) *Wind energy principal permitted uses.* A small structure-mounted wind energy turbine (SSMWET) and a small tower-mounted wind energy turbine (STMWET) shall be considered a permitted use in all zoning districts and shall not be erected, constructed, installed or modified as provided in this section unless administrative approval from the planning division and appropriate building permits have been issued to the owner(s) or operator(s). All SSMWETs and STMWETs are subject to the following minimum requirements:

(1) *Siting and design requirements.*

A. "Upwind" turbines shall be required.

B. Visual appearance.

1. A SSMWET or STMWET, including accessory buildings and related structures shall be a non-reflective, non-obtrusive color (e.g. white, gray, black). The appearance of the turbine, tower and any ancillary facility shall be maintained throughout the life of the SSMWET or STMWET.

2. A SSMWET or STMWET shall not be artificially lighted, except to the extent required by the FAA or other applicable authority, or otherwise necessary for the reasonable safety and security thereof.

3. A SSMWET or STMWET shall not be used for displaying any advertising (including flags, streamers or decorative items), except for reasonable identification of the turbine manufacture.

C. Ground clearance: The lowest extension of any blade or other exposed moving component of the SSMWET or STMWET shall be at least fifteen (15) feet above the ground (at the highest point of the natural grade within thirty (30) feet of the base of the tower) and, in addition, at least fifteen (15) feet above any outdoor surfaces intended for human use, such as balconies or roof gardens, that are located directly below the SSMWET or STMWET.

D. Noise: Noise emanating from the operation of a SSMWET(s) shall not exceed, at any time, the lowest ambient sound level that is present between the hours of 9:00 p.m. and 9:00 a.m. at any property line of a residential use parcel or from the property line of parks, schools, hospitals or

churches. Noise emanating from the operation of a SSMWET or STMWET shall not exceed, at any time, the lowest ambient noise level plus five (5) dBA that is present between the hours of 9:00 p.m. and 9:00 a.m. at any property line of a non-residential use parcel.

E. Vibration: Vibrations shall not be produced which are humanly perceptible beyond the property on which a SSMWET or STMWET is located.

F. Guy wires: Guy wires shall not be permitted as part of the SSMWET or STMWET.

G. In addition to the siting and design requirements listed previously, the SSMWET shall also be subject to the following:

1. Height: The height of the SSMWET shall not exceed fifteen (15) feet as measured from the highest point of the roof, excluding chimneys, antennae and other similar protuberances.

2. Setback: The setback of the SSMWET shall be a minimum of fifteen (15) feet from the property line, public right-of-way, public easement or overhead utility lines if mounted directly on a roof or other elevated surface of a structure. If the SSMWET is affixed by extension to the side, roof or other elevated surface, then the setback from the property lines or public right-of-way shall be a minimum of fifteen (15) feet. The setback shall be measured from the furthest outward extension of all moving parts.

3. Location: The SSMWET shall not be affixed to the side of a structure facing a road.

4. Quantity: No more than two (2) SSMWETs shall be installed on any parcel of property.

5. Separation: If more than one SSMWET is installed, a distance equal to the height of the highest SSMWET must be maintained between the base of each SSMWET.

H. In addition to the siting and design requirements listed previously, the STMWET shall also be subject to the following:

1. Height: The total height of a STMWET in any nonresidential district shall not exceed one hundred (100) feet. In any residential district, the total height of a STMWET shall not exceed sixty (60) feet. The total height of a STMWET in any residential district may be increased to a height not to exceed one hundred (100) feet upon submission of an approved wind resource study documenting a forty-seven (47) percent increase in the average wind speed at the proposed height over the average wind speed at the established total height limitation of sixty (60) feet. An approved study will require measurements taken at the proposed site of the STMWET spanning a time period of at least one (1) year.

2. Location: The STMWET shall only be located in the rear yard of a property that has an occupied building. In the case of a double-frontage lot, the STMWET may be located in an interior side yard.

3. Occupied building setback: The setback from all occupied buildings on the applicant's parcel shall be a minimum of twenty (20) feet measured from the base of the tower.

4. Other setbacks: The setback shall be equal to the total height of the STMWET as measured from the base of the tower, from the property line, public right-of-way, public easement or overhead utility lines. This setback may be reduced if the applicant provides a registered engineer's certification that the WET is designed to collapse, fall, curl or bend within a distance or zone shorter than the height of the wind turbine.

5. Quantity: No more than one (1) STMWET shall be installed on any parcel of property.

6. *Electrical system:* All electrical controls, control wiring, grounding wires, power lines and system components shall be placed underground within the boundary of each parcel at a

depth designed to accommodate the existing land use to the maximum extent practicable. Wires necessary to connect the wind generator to the tower wiring are exempt from this requirement.

(2) *Application requirements.* The following information should be submitted with the proposed site plan.

A. Documented compliance with the noise requirements set forth in this section. Said documentation shall require, at a minimum, data reflecting ambient sound measurements taken over a two-week period, which shall include the location on the property where the measurements were taken. The method of measuring ambient sound levels and the location on the property where the measurements will be taken shall be approved by the city prior to the collection of the data.

B. Documented compliance with applicable local, state and national regulations including but not limited to, all applicable safety, construction, environmental, electrical, communications and FAA requirements.

C. Proof of applicant's liability insurance.

D. Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator and that such connection has been approved. Off-grid systems shall be exempt from this requirement.

E. The STMWET application shall also include the following: A description of the methods that will be used to perform maintenance on the STMWET and the procedures for lowering or removing the STMWET in order to conduct maintenance.

(3) *Safety requirements.*

A. If the SSMWET or STMWET is connected to a public utility system for net metering purposes, it shall meet the requirements for interconnection and operation as set forth in the public utility's then-current service regulations meeting federal, state and industry standards applicable to wind power generation facilities, and the connection shall be inspected by the appropriate public utility.

B. The SSMWET or STMWET shall be equipped with an automatic braking, governing or feathering system to prevent uncontrolled rotation, over-speeding and excessive pressure on the tower structure, rotor blades and other wind energy components unless the manufacturer certifies that a braking system is not necessary.

C. A clearly visible warning sign regarding voltage shall be placed at the base of the SSMWET or STMWET.

D. The structural integrity of the SSMWET or STMWET shall conform to the design standards of the International Electrical Commission, specifically IEC 61400-1, "Wind Turbine Safety and Design" and or IEC 61400-23 "Blade Structural Testing," or any similar successor standards.

(4) *Signal interference.* The SSMWET or STMWET shall not interfere with communication systems such as, but not limited to, radio, telephone, television, satellite or emergency communication systems.

(5) *Decommissioning.*

A. The SSMWET or STMWET owner(s) or operator(s) shall complete decommissioning within twelve (12) months after the end of the useful life. Upon request of the owner(s) or assigns of the SSMWET of STMWET, and for a good cause, the city council may grant a reasonable extension of time. The SSMWET or STMWET will presume to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months. All decommissioning expenses are the responsibility of the owner(s) or operator(s).

B. If the SSMWET or STMWET owner(s) or operator(s) fails to complete decommissioning within the period prescribed above, the city council may designate a contractor to complete decommissioning with the expense thereof to be charged to the violator and/or to become a lien against the premises. If the SSMWET or STMWET is not owned by the property owner, a bond must be provided to the city for the cost of decommissioning each SSMWET or STMWET.

C. In addition to the decommissioning requirements listed above, the STMWET shall also be subject to the following:

1. Decommissioning shall include the removal of each STMWET, buildings, electrical components and any other associated facilities. Any foundation shall be removed to a minimum depth of sixty (60) inches below grade, or to the level of the bedrock if less than sixty (60) inches below grade.

2. The site and any disturbed earth shall be stabilized, graded and cleared of any debris by the owner(s) of the facility or its assigns. If the site is not to be used for agricultural practices following removal, the site shall be seeded to prevent soil erosion.

(e) *Wind energy principal permitted uses subject to special conditions.* A medium wind energy turbine (MWET) shall be considered a principal permitted use subject to special conditions in the following districts: I-1 (light industrial), I-2 (general industrial) and OST (office service technology). A MWET shall not be erected, constructed, installed or modified as provided in this section unless city council approval has been granted after a recommendation from the planning commission and appropriate building permits have been issued to the owner(s) or operator(s). All MWETs are subject to the following minimum requirements:

(1) *Siting and design requirements.*

A. "Upwind" turbines shall be required.

B. The design of a MWET shall conform to all applicable industry standards.

C. Visual appearance.

1. Each MWET, including accessory buildings and related structures shall be mounted on a tubular tower and a non-reflective, non-obtrusive color (e.g. white, gray, black). The appearance of turbines, towers and buildings shall be maintained throughout the life of the MWET.

2. Each MWET shall not be artificially lighted, except to the extent required by the FAA or other applicable authority, or otherwise necessary for the reasonable safety and security thereof.

3. A MWET shall not be used for displaying any advertising (including flags, streamers or decorative items), except for reasonable identification of the turbine manufacture.

D. Vibration: Each MWET shall not produce vibrations humanly perceptible beyond the property on which it is located.

E. Shadow flicker: The MWET owner(s) and/or operator(s) shall conduct an analysis on potential shadow flicker at any occupied building with direct line-of-sight to the MWET. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sun-rise to sun-set over the course of a year. The analysis shall identify situations where shadow flicker may affect the occupants of the buildings for more than thirty (30) hours per year and describe measures that shall be taken to eliminate or mitigate the problems. Shadow flicker on a building shall not exceed thirty (30) hours per year.

F. Guy wires: Guy wires shall not be permitted as part of the MWET.

G. Electrical system: All electrical controls, control wiring, grounding wires, power lines and all other electrical system components of the MWET shall be placed underground within the boundary of each parcel at a depth designed to accommodate the existing land use to the maximum extent practicable. Wires necessary to connect the wind generator to the tower wiring are exempt from this requirement.

H. Location: If an MWET is located on an agricultural, commercial, industrial or public property that has an occupied building it shall only be located in the rear yard. In the case of a double frontage lot, the MWET may be located in an interior side yard. The MWET shall only be located in a general common element in a condominium development.

I. Height: The total height of an MWET shall not exceed one hundred fifty (150) feet.

J. Ground clearance: The lowest extension of any blade or other exposed moving component of a MWET shall be at least fifteen (15) feet above the ground (at the highest point of the grade level within fifty (50) feet of the base of the tower) and, in addition, at least fifteen (15) feet above any outdoor surfaces intended for human occupancy, such as balconies or roof gardens, that are located directly below the MWET.

K. Noise: Noise emanating from the operation of a MWET shall not exceed, at any time, the lowest ambient sound level that is present between the hours of 9:00 p.m. and 9:00 a.m. at any property line of a residential or agricultural use parcel or from the property line of parks, schools, hospitals and churches. Noise emanating from the operation of a MWET(s) shall not exceed, at any time, the lowest ambient noise level plus five (5) dBA that is present between the hours of 9:00 p.m. and 9:00 a.m. at any property line of a non-residential or non-agricultural use parcel.

L. Quantity: No more than one (1) MWET shall be installed for every two and one-half (2.5) acres of land included in the parcel.

M. Setback and separation:

1. Occupied building setback: The setback from all occupied buildings on the applicant's parcel shall be a minimum of twenty (20) feet measured from the base of the tower.

2. Property line setbacks: With the exception of the locations of public roads (see below) and parcels with occupied buildings (see above), the internal property line setbacks shall be equal to the total height of the MWET as measured from the base of the tower. This setback may be reduced to a distance agreed upon as part of the special use permit if the applicant provides a registered engineer's certification that the WET is designed to collapse, fall, curl or bend within a distance or zone shorter than the height of the WET.

3. Public road setbacks: Each MWET shall be set back from the nearest public road a distance equal to the total height of the MWET, determined at the nearest boundary of the underlying right-of-way for such public road.

4. Communication and electrical lines: Each MWET shall be set back from the nearest above-ground public electric power line or telephone line a distance equal to the total height of the MWET, as measured from the base of the tower, determined from the existing power line or telephone line.

5. Tower separation: MWET tower separation shall be based on industry standard and manufacturer recommendations.

(2) *Safety requirements.*

A. If the MWET is connected to a public utility system for net metering purposes, it shall meet the requirements for interconnection and operation as set forth in the public utility's then-current

service regulations meeting federal, state and industry standards applicable to wind power generation facilities, and the connection shall be inspected by the appropriate public utility.

B. The MWET shall be equipped with an automatic braking, governing or feathering system to prevent uncontrolled rotation, over-speeding and excessive pressure on the tower structure, rotor blades and other wind energy components unless the manufacturer certifies that a braking system is not necessary.

C. Security measures need to be in place to prevent unauthorized trespass and access. Each MWET shall not be climbable up to fifteen (15) feet above ground surfaces. All access doors to MWETs and electrical equipment shall be locked and/or fenced as appropriate, to prevent entry by non-authorized person(s).

D. All spent lubricants, cooling fluids and any other hazardous materials shall be properly and safely removed in a timely manner.

E. Each MWET shall have one sign, not to exceed two (2) square feet in area, posted at the base of the tower and on the security fence, if applicable. The sign shall contain at least the following:

1. Warning high voltage.

2. Manufacturer's and owner(s)/operator(s) name(s).

3. Emergency contact numbers (list more than one number).

F. The structural integrity of the MWET shall conform to the design standards of the International Electrical Commission, specifically IEC 61400-1, "Wind Turbine Safety and Design," IEC 61400-22 "Wind Turbine Certification" and or IEC 61400-23 "Blade Structural Testing," or any similar successor standards.

(3) *Signal interference.*

A. The MWET shall not interfere with communication systems such as, but not limited to, radio, telephone, television, satellite or emergency communication systems.

(4) *Decommissioning.*

A. The MWET owner(s) or operator(s) shall complete decommissioning within twelve (12) months after the end of the useful life. Upon request of the owner(s) or assigns of the MWET and for a good cause, the city council may grant a reasonable extension of time. The MWET will presume to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months. All decommissioning expenses are the responsibility of the owner(s) or operator(s).

B. Decommissioning shall include the removal of each MWET, buildings, electrical components and roads to a depth of sixty (60) inches, as well as any other associated facilities. Any foundation shall be removed to a minimum depth of sixty (60) inches below grade, or to the level of the bedrock if less than sixty (60) inches below grade. Following removal, the location of any remaining wind turbine foundation shall be identified on a map as such and recorded with the deed to the property with the county register of deeds.

C. All access roads to the MWET shall be removed, cleared and graded by the MWET owner(s), unless the property owner(s) requests in writing, a desire to maintain the access road. The city will not be assumed to take ownership of any access road unless through official action of the city council.

D. The site and any disturbed earth shall be stabilized, graded and cleared of any debris by the owner(s) of the MWET or its assigns. If the site is not to be used for agricultural practices following removal, the site shall be seeded to prevent soil erosion.

E. If the MWET owner(s) or operator(s) fails to complete decommissioning within the period described above, the city may designate a contractor to complete the decommissioning with the expense thereof to be charged to the violator and/or to become a lien against the premises. If the MWET is not owned by the property owner, a bond must be provided to the city for the cost of decommissioning each MWET.

(5) *Application requirements.* The following information should be submitted with the proposed site plan.

A. Documented compliance with the noise and shadow flicker requirements set forth in this section. Said documentation shall require, at a minimum, data reflecting ambient sound measurements taken over a two-week period, which shall include the location on the property where the measurements were taken. The method of measuring ambient sound levels and the location on the property where the measurements will be taken shall be approved by the city prior to the collection of the data.

B. Engineering data concerning construction of the MWET and its base or foundation, which may include, but is not limited to, soil boring data.

C. Anticipated construction schedule.

D. A copy of the maintenance and operation plan, including anticipated regular and unscheduled maintenance. Additionally, a description of the procedures that will be used for lowering or removing the MWET to conduct maintenance, if applicable.

E. Documented compliance with applicable local, state and national regulations including, but not limited to, all applicable safety, construction, environmental, electrical and communications. The MWET shall comply with Federal Aviation Administration (FAA) requirements, Michigan Airport Zoning Act, Michigan Tall Structures Act and any applicable airport overlay zone regulations.

F. Proof of applicant's liability insurance.

G. Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator and that such connection has been approved. Off-grid systems shall be exempt from this requirement.

H. A written description of the anticipated life of each MWET; the estimated cost of decommissioning; the method of ensuring that funds will be available for decommissioning and site restoration; and removal and restoration procedures and schedules that will be employed if the MWET(s) become inoperative or non-functional.

I. The applicant shall submit a decommissioning plan that will be carried out at the end of the MWET's useful life, and shall describe any agreement with the landowner(s) regarding equipment removal upon termination of the lease.

J. The proposed plan shall conform to the requirements of Section 2516 of the Zoning Ordinance: Site Plan Review (All Districts).

(6) *Certification and compliance.* The city must be notified of a change in ownership of a MWET or a change in ownership of the property on which the MWET is located.

(f) *Temporary uses related to wind energy turbines.* The following is permitted in all zoning districts as a temporary use, in compliance with the provisions contained herein, and the applicable WET regulations.

(1) *Anemometers.*

A. The construction, installation or modification of an anemometer tower shall require a building permit and shall conform to all applicable local, state and federal safety, construction, environmental, electrical, communications and FAA requirements.

B. An anemometer shall be subject to the minimum requirements for height, setback, separation, location, safety requirements and decommissioning that correspond to the size of the WET that is proposed to be constructed on the site.

C. An anemometer shall be permitted for no more than thirteen (13) months for a SSMWET, STMWET or MWET.

(Ord. No. H-10-09, § I, 3-8-11)

Secs. 36-237—36-250. Reserved.

ARTICLE VII. GENERAL PROVISIONS

DIVISION 1. ACCESSORY STRUCTURES AND USES

Sec. 36-251. Accessory structures.

(a) *Conformance to regulations.* Where an accessory structure is structurally attached to a principal building, it shall be subject to and must conform to all regulations of this article applicable to principal buildings.

(1) *Exception for corner lots.* On a corner lot, the required rear yard for a main or principal building with an attached garage may be not less than six (6) feet providing that maximum lot coverage of all principal and accessory buildings on the lot does not exceed the maximum provided in section 36-106, Dimensional standards, and provided further that the total area of accessory buildings does not exceed the standards in subsection (b), below. The purpose of this exception is to recognize the value of privacy for residents on a corner lot, the ability to use the adjacent street or alley along the side lot line for access to the garage, and the usually larger lot size platted for corner lots.

(b) *Lot coverage.* The total floor area of all accessory buildings shall not exceed eight hundred (800) square feet. Sheds shall not exceed two hundred (200) square feet in floor area.

(c) *Location and setbacks.* Accessory buildings shall be located to the rear of the principal building except when structurally attached to the principal building.

(1) Accessory buildings shall not be erected in any required yard except a rear yard, provided further that in no instance shall such a building be nearer than two (2) feet to any adjoining side lot line and two (2) feet to any rear lot line.

(2) Eaves or overhangs may not extend more than six (6) inches into the required side and/or rear yard setback.

(3) Accessory buildings shall not occupy more than twenty-five (25) percent of the required rear yard.

(d) *Height.* An accessory building shall not exceed fifteen (15) feet in height measured from the surface of the floor to the ridge or the highest point of the roof. The maximum wall height allowed is eight (8) feet.

(e) *Building separation.* No detached accessory building shall be located closer than fifteen (15) feet to any principal building, except that garages may be located no closer than six (6) feet between the roof overhang of the garage and the principal building. The building official may approve a waiver of the fifteen-foot restriction for any accessory building if, in his opinion, better lot utilization would be achieved and the accessory building(s) conform to all other applicable regulations of this article.

(f) *Through lots.* In the case of double frontage lots, accessory buildings shall observe front yard requirements on both street frontages wherever there are any principal buildings fronting on such streets in the same block or adjacent blocks.

(g) *Corner lots.*

(1) When the side lot line of the corner lot is substantially a continuation of the front lot line of the lot to its rear, an accessory structure shall not project beyond the front yard required on the lot line in rear of such corner lot.

(2) When the side lot line of the corner lot is substantially a continuation of the side lot line of the lot to its rear, the minimum side yard for accessory structures on the side of the lot abutting the street shall be six (6) feet.

(h) *Residential garages.* Only one (1) garage may be permitted per residential lot.

(1) Eaves or overhangs may not extend more than six (6) inches into the required side yard area.

(2) Detached garages, erected in such a way that all or any portion of same is at the side of the dwelling, shall not be erected within the minimum side yard required for the zoning district in which it is located.

(3) Detached garages erected completely to the rear of the dwelling shall not be located closer than two (2) feet from either of the side lot lines, nor closer than two (2) feet from rear lot line.

(4) No detached garage or portion thereof shall extend into the front yard area.

(5) The maximum height of any door or opening in any garage above the surface of the floor of the garage shall not exceed eight (8) feet.

(6) No garage accessory to a single-family residence shall provide parking space for more than three (3) vehicles.

(i) *Carport.* In any residential zoning district, no carport shall be erected, constructed, or altered closer to the side lot line than the permitted distance for the dwelling, nor more than four (4) feet beyond the front line of the house to which it is attached; provided no portion of the carport shall extend into the required front yard area.

(j) *Timing of construction.* No garage or accessory building shall be constructed upon or moved to any parcel of property until the principal building on, or intended to be placed thereon, is at least two-thirds (⅔) completed.

(k) *Use as dwelling prohibited.* No accessory structure shall be occupied for residential purposes, except as otherwise provided in this article.

(Ord. No. H-07-01, § 7.101, 7-24-07)

Sec. 36-252. Swimming pools, spas, and hot tubs.

(a) *Use permitted.* Outdoor swimming pools, spas, and hot tubs with a diameter exceeding twelve (12) feet, a depth exceeding four (4) feet, or an area exceeding one hundred (100) square feet, permanently or temporarily placed in, on, or above the ground shall be permitted as an accessory structure in all residential zoning districts subject to the following:

(1) *Location.* Swimming pools, spas, and hot tubs shall be prohibited in the front yard area, or within any easement or right-of-way.

(2) *Distance from lot lines.* There shall be a minimum distance of not less than ten (10) feet between adjoining lot lines or alley right-of-way and the outside wall of the swimming pool, spa, or hot tub.

(3) *Distance from buildings.* There shall be a distance of not less than four feet between the outside wall of a swimming pool and any building or other structure (garage, shed, etc.) on the same lot. This requirement shall not apply to spas or hot tubs.

(4) *Access prevention.* To prevent unauthorized access and protect the general public, swimming pools, spas, and hot tubs shall be secured and completely enclosed by a fence at least four (4) feet in height with a self-closing and latching gate.

a. Aboveground pool walls four (4) feet or more in height shall satisfy this requirement, provided that the pool ladder or steps shall be capable of being secured, locked, or removed.

b. The building official may waive this requirement upon determining that the swimming pool, spa, or hot tub is otherwise secured against unauthorized access.

(5) *Separation from overhead utilities.* No swimming pool shall be located directly under utility wires or electrical service leads. A minimum ten-foot horizontal setback shall be maintained from the pool perimeter to the vertical plane of the overhead wire.

(6) *Separation from underground utilities.* A horizontal distance of at least three (3) feet must be maintained from a permanent pool to any sanitary sewer line or lead and any underground water, electrical, telephone, gas, or other pipes and conduits, except for parts of the swimming pool system.

(b) *Compliance with other codes.* Swimming pools, spas, and hot tubs shall comply with all applicable provisions of the state construction code and other state and local requirements.

(c) *Permit required.* Construction, alteration, or relocation of swimming pools, spas, and hot tubs shall require a zoning compliance certificate from the building official per section 36-4, Zoning compliance certificate.

(Ord. No. H-07-01, § 7.102, 7-24-07)

Sec. 36-253. Trash enclosures.

(a) *Standards for siting and screening of trash dumpsters.* Dumpsters may be permitted as accessory to any use other than single- and two-family residential uses, subject to the following conditions:

(1) *Location.* Dumpsters shall be located in a rear yard, provided any such dumpster shall not encroach on required parking area, is clearly accessible to servicing vehicles, and is located at least ten (10) feet from any building.

a. Dumpsters shall comply with the setback requirements for the district in which they are located.

b. Dumpsters shall be located as far as practicable from any adjoining residential district.

(2) *Concrete pad.* Dumpsters shall be placed on a concrete pad. The concrete pad should extend a minimum of three feet in front of the dumpster enclosure.

(3) *Screening.* Dumpsters shall be screened from view from adjoining property and public streets and thoroughfares.

a. Dumpsters shall be screened on three sides with a permanent building, decorative masonry wall, wood fencing, or earth mound, not less than six (6) feet in height or at least one (1) foot above the height of the enclosed dumpster, whichever is taller. The enclosure shall be constructed in an ornamental design that will harmonize with the principal building on the same lot.

b. The fourth side of the dumpster screening shall be equipped with an opaque lockable gate that is the same height as the enclosure around the other three (3) sides.

(4) *Wood screening standards.* If wood fencing is selected as the desired dumpster screening alternative, the following standards shall apply:

a. *Materials.* Only solid No. 1 pressure-treated wood shall be permitted.

b. *Posts.* Posts shall be set in concrete forty-two (42) inches below grade level. Two (2) types of posts shall be permitted: (1) Six (6) inches x six (6) inches pressure-treated wood; or (2) three (3) inches diameter galvanized steel posts.

(5) *Bollards.* Bollards (concrete filled metal posts) or similar protective devices shall be installed at the opening and within the enclosure to protect the wall and gate from damage from the dumpster, trash container, or collection vehicles.

(6) *Site plan requirements.* The location and method of screening of dumpsters shall be shown on all site plans and shall be subject to the approval of the planning commission.

(7) *Maintenance of trash containers.* The dumpster and/or trash container, the screening enclosure, and the surrounding ground area shall be maintained in a neat and orderly appearance, free from rubbish, wastepaper, or other debris. It shall be the responsibility and duty of the owner of the parcel on which the dumpster and/or trash container is located to maintain the dumpster and/or trash container and the ornamental screening so as not to create a blight condition or an eyesore to the surrounding residential neighborhood.

(8) *Construction use.* The provisions of this section shall not apply to a dumpster or trash container used on a temporary basis during the construction of any building, provided that such container is removed from the premises or moved to an approved, screened location on-site prior to issuance of the final certificate of occupancy.

(Ord. No. H-07-01, § 7.103, 7-24-07)

Sec. 36-254. Temporary structures and uses.

(a) *Temporary structures used for residential purposes.* A building or structure may be approved for temporary residential use only while damage to the principal dwelling due to fire, flood, ice, wind, or other natural disaster is being repaired. Any such temporary building shall not be used as a residence without prior review and approval by the police, fire, and building officials.

(1) *Mobile homes as temporary residences.* A mobile home or other approved living quarters may be occupied as a residence on a temporary basis on sites for which a building permit has been issued for construction, major repair, or remodeling of a new dwelling unit, subject to the following:

a. Such permits may be issued by the building official for up to six (6) months in duration and may be renewed for periods of up to six (6) months, provided that work is proceeding expeditiously.

b. The total duration of a temporary permit shall not exceed twenty-four (24) months.

c. Temporary structures shall comply with the setbacks for the district in which they are located.

d. The building official shall approve electrical and utility connections to any temporary structure.

e. An approved temporary structure may be moved onto a site fourteen (14) days prior to commencement of construction and shall be removed within fourteen (14) days following issuance of a certificate of occupancy for the permanent dwelling.

f. The applicant shall furnish the city with a performance guarantee in the amount of five hundred dollars ($500.00) to assure removal of the temporary structure.

(b) *Temporary structures used for nonresidential purposes.* Temporary buildings for nonresidential use, including semi-trucks/trailers and concrete batch plants, shall be permitted only when the intended use is by a contractor or builder in conjunction with a construction project, and only after review and approval by the building official. Such temporary structures shall be removed immediately upon completion of the construction project and prior to a request for a certificate of occupancy for the project. Temporary construction buildings or structures shall be subject to the provisions of section 36-235, Temporary construction structures and uses.

(c) *Permits.* Permits for the utilization of temporary structures shall be issued by the building official. The permit shall specify a date for the removal of the temporary structure, and the building official may require a bond to insure removal. A certificate of occupancy shall be required for temporary structures.

(d) *Use as an accessory structure.* A temporary building or structure shall not be used as an accessory building or structure, except as permitted herein.

(e) *Special events and other temporary uses.*

(1) The city council, the zoning board of appeals or where applicable the building official (subsection 36-493(b), Administrative review), may grant temporary use of land and structures for special events and other temporary uses, subject to the following general conditions:

a. Adequate off-street parking shall be provided.

b. The applicant shall specify the exact duration of the temporary use. If the duration of a temporary use does not exceed five (5) days, including setup and breakdown, city council review is not required and the use may be reviewed administratively by the building official.

c. Electrical and utility connections shall be approved by the building official.

d. The city council, the zoning board of appeals or where applicable the building official (subsection 36-493(b), Administrative review) may require a performance bond to assure proper clean-up, according to subsection 36-7(2)).

(2) *Specific uses.* The following conditions apply to specific temporary uses:

a. *Carnival or circus.*

1. Maximum duration: Ten (10) days.

2. Operator or sponsor: Non-profit entity.

3. Location: Shall not be located in or adjacent to any developed residential area except on church, school or park property.

b. *Sidewalk display and sale of bedding plants.*

1. Maximum duration: Ninety (90) days.

2. Location: In commercial districts only.

3. Sidewalk coverage: Shall not cover more than fifty (50) percent of the width of the sidewalk.

c. *Christmas tree sales.*

1. Maximum duration: Forty-five (45) days.

2. Location: Shall not be located in or adjacent to any developed residential area.

3. Clean-up: Stumps, branches, and other debris shall be completely removed from site.

d. *Festival.*

1. Maximum duration: Three (3) days operation, one (1) day set up and one (1) day tear down, total five (5) days.
2. Operator or sponsor: Non-profit entity.
3. Location: Shall not be located in or adjacent to any developed residential area except on church property.
4. No live animals or fish to be given as prizes.
5. No amplified music after 10:00 p.m.
6. Must obtain temporary use permit and license from city building official.

(Ord. No. H-07-01, § 7.104, 7-24-07; Ord. No. H-10-02, § 1, 4-21-10)

Sec. 36-255. Open storage of vehicles or materials.

(a) *Purpose.* The regulations set forth in this section are intended to regulate the methods of storage, the types of materials that may be stored, and the accumulation of unusable, inoperable, or unsightly motor vehicles, machinery, or building materials that could be hazardous to the safety of children, encourage the propagation of rats or rodents, or detract from the orderly appearance of the city.

(b) *Motor vehicle parking and storage.*

(1) No motor vehicle shall be kept, parked, or stored in any district zoned for residential use, unless the vehicle is in operating condition and properly licensed, or is kept inside a building.

(2) These provisions shall not apply to any motor vehicle ordinarily used but temporarily out of running condition.

(3) If a motor vehicle is being kept for actual use, but is temporarily unlicensed, the ordinance enforcement officer may grant the owner a period of up to twenty-one (21) calendar days to secure a license.

(c) *Machinery and building materials storage.* Unusable, rusty, nonfunctional, or inoperable machinery, equipment, parts, or building supplies not suited for use on the premises shall not be kept or stored outside of a building. Building materials intended to be used to improve the premises may be stored outside during the term of any site plan or permit approval, provided that such materials are piled off the ground so as not to become a suitable environment for vermin.

(d) *Use of vehicles for storage.* Motor or recreational vehicles, cargo trailers, tankers, semi-trailers, and other vehicles shall not be used for storage purposes, except as permitted under section 36-251, Accessory structures.

(e) *Use standards.* Setbacks, screening, and other use standards for any open storage shall be subject to the provisions of section 36-234, Outdoor storage.

(Ord. No. H-07-01, § 7.105, 7-24-07)

Secs. 36-356—36-265. Reserved.

DIVISION 2. YARD AND BULK REGULATIONS

Sec. 36-266. General regulations.

(a) *In general.* All lots, buildings, and structures shall comply with the following general yard and bulk regulations unless specifically stated otherwise in this article:

(1) *Minimum lot size.* Every building hereafter erected on a lot or parcel of land created subsequent to the effective date of this chapter shall comply with the lot size, lot coverage, and setback requirements for the district in which it is located.

(2) *Existing yards.* No yards in existence on the effective date of this chapter, shall subsequently be reduced below, or further reduced if already less than, the minimum yard requirements of this article.

(3) *Double-frontage lots.* For any double-frontage lot in a residential district, one street frontage shall be designated as the 'front' of the lot, with all yard and setback provisions to be then considered as if a typical lot.

(4) *Number of principal uses per lot.* Only one (1) principal building shall be placed on a lot of record or parcel in single-family residential districts. In a single family site condominium project, only one (1) principal building shall be placed on each condominium lot.

(5) *Lots adjoining alleys.* In calculating the area of a lot that adjoins an alley for the purposes of applying lot area and setback requirements, one-half of the width of said alley shall be considered a part of the lot.

(b) *Continued conformity with yard and bulk regulations.* The maintenance of yards and other open space and minimum lot area legally required for a building shall be a continuing obligation of the owner of such building or of the property on which it is located, for as long as the building is in existence.

(1) No portion of a lot used in complying with the provisions of this article in connection with an existing or planned building, shall again be used to qualify or justify any other building or structure existing or intended to exist at the same time.

(Ord. No. H-07-01, § 7.201, 7-24-07)

Sec. 36-267. Yard encroachments.

(a) *Projections from a building.* Outside stairways, fire escapes, fire towers, porches, platforms, balconies, boiler flues, air conditioning and refrigeration equipment, and other similar projections shall be considered part of the building, subject to the setback requirements for the district in which the building is located, except in the instances detailed below.

(b) *Exceptions.* The following building projections shall be permitted to encroach into a required setback:

(1) One (1) fireplace or chimney, not more than eight (8) feet in length and projecting not more than twelve (12) inches from the building.

(2) Cornices not exceeding eighteen (18) inches in width, including the gutter.

(3) Unenclosed porches, with or without a roof, or similar projections not higher than four (4) feet above the building grade, subject to the following setback regulations:

a. A porch or similar projection shall not extend more than eight (8) feet into a required front yard.

b. A porch or similar projection shall not extend more than fourteen (14) feet into a required rear yard.

c. A porch or similar projection shall be set back four (4) feet from an interior side lot line.

d. A porch or similar projection shall be set back five (5) feet from a street side lot line.

e. On double-frontage lots, a porch or similar projection shall be set back seventeen (17) feet from either abutting street.

(4) Air conditioning and refrigeration equipment located outside a residential structure shall be located in the rear yard. Placement of such equipment in the side yard shall be prohibited, except under the following conditions:

a. The equipment is on the street side of a corner lot;

b. No air discharge shall be directed toward adjacent properties;

c. The equipment is screened from view of any public street; and

d. The equipment is at least twenty-five (25) feet, measured horizontally, from any opening to a habitable room on neighboring property.

e. Any installation of air conditioning or refrigeration equipment in a residential side yard shall be subject to administrative site plan review, per article XIV, Procedures and Standards. The applicant shall submit a written statement acknowledging the performance standards of this article relating to noise and a notarized letter of non-objection from the owner of any residential property reasonably affected by such air conditioning or refrigeration device.

(c) *Permitted projections.* The following table summarizes permitted projections in required yards:

Type of Projection	Front Yard	Rear Yard	Side Yard	
			Interior	Corner
Air conditioning equipment shelters	—	P	—	see above
Access drives	P	P	P	P
Arbors and trellises	P	P	P	P
Awnings and canopies, projecting into 10 percent or less of yard depth	P	P	P	P
Bay windows	P	P	P	P
Decks (no roof, higher than six inches)	—	P	—	—
Eaves or cornices, overhanging; gutters	P	P	P	P
Flagpoles; ornamental lights >6 feet tall	P	P	P	P
Gardens; trees, shrubs, hedges	P	P	P	P
Laundry drying equipment	—	P	P	—
Parking, off-street	See article IX			
Porches	See section 36-267(b)			
Steps	P	P	P	P
Television or radio towers or antennas	—	P	P	P
Walls	See section 10.09			
Window air conditioning units	P	P	P	P
	P = Permitted — = Not Permitted			

(Ord. No. H-07-01, § 7.202, 7-24-07)

Sec. 36-268. Access through yards.

(a) *Access drives.* For the purposes of this article, access drives may be placed in the required front or side yards so as to provide access to rear yards or accessory or attached structures.

(b) *Walkways and terraces.* Any walkway, terrace, or other pavement providing access through a yard and not in excess of six (6) inches above grade shall be permitted in any required yard and not be considered to be a structure. The total area of any such walkway, terrace, or other pavement shall be included in the calculation of impervious surface, as regulated in this article.

(Ord. No. H-07-01, § 7.203, 7-24-07)

Sec. 36-269. Property maintenance.

(a) Each property owner shall be responsible for keeping their lot and buildings clean and free of any accumulation or infestation of dirt, filth, rubbish, garbage, vermin, or other matter.

(b) *Hazards.* Any hazardous places on a lot shall be fenced and secured.

(Ord. No. H-07-01, § 7.204, 7-24-07)

Sec. 36-270. Property between lot line and road.

(a) *Ground cover.* The area between the lot line and edge of road pavement shall be maintained with grass or other suitable groundcover.

(b) *Maintenance responsibility.* Property owners shall be responsible for the condition, cleanliness, and maintenance of the areas in front of their lot between the lot line and the pavement edge.

(Ord. No. H-07-01, § 7.205, 7-24-07)

Sec. 36-271. Exceptions.

(a) *Essential services.* Essential services, as defined in article II, shall be permitted as authorized and regulated by franchise agreements and federal, state, and local laws and ordinances, it being the intention of this chapter to permit modification to regulations governing lot area, building or structure height, building or structure placement, and use of land in the city when strict compliance with such regulations would not be practical or feasible.

(1) *Review of essential services.* Although essential services may be exempt from certain regulations, proposals for construction of essential services shall still be subject to site plan review and special land use review, it being the intention of the city to achieve efficient use of the land and alleviate adverse impact on nearby uses or lands. Essential services shall comply with all applicable regulations that do not affect the basic design or essential operation of said services.

(b) *Exceptions to height standards.* The height limitations of this article shall not apply to roof structures for the housing of elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain a building, fire or parapet walls, skylights, towers, steeples, stage lofts and screens, flagpoles, chimneys, smokestacks, public monuments, individual domestic radio and television aerials, wireless communications facilities (as defined at section 36-336), water tanks, or similar structures; provided that the following requirements are complied with:

(1) *Maximum height extension.* No such structure may exceed by more than fifteen (15) feet the height limits of the district in which it is located, whether located on a roof or freestanding.

(2) *Roof coverage.* No such structure, when mounted on a roof, shall have a total area greater than twenty-five (25) percent of the roof area of the building.

(3) *Location in required yards.* No such structure shall be located within any required front or side yard, except as permitted under section 36-267, Yard encroachments.

(4) *Use of structure.* No such structure shall be used for any residential purpose or any commercial or industrial purpose other than a use incidental to the main use of the building.

(5) *Height restrictions near airports.* Height restrictions for all buildings, structures and appurtenances erected beneath established aircraft approach lanes shall be as established by the zoning board of appeals after consultation with the appropriate aeronautical agency.

(c) *Criteria for variances from height standards.* Variances from height standards may be sought from the zoning board of appeals. In considering such a request, the zoning board of appeals shall consider the character of the surrounding uses, the height of surrounding structures, the potential to obscure light or view to or from existing buildings or surrounding properties, and potential detriment to the use or value of surrounding properties.

(Ord. No. H-07-01, § 7.206, 7-24-07)

Secs. 36-272—36-285. Reserved.

DIVISION 3. OTHER PROVISIONS

Sec. 36-286. Building grades.

(a) *Grading of yards.* Any building requiring yard space shall be located at such an elevation, as determined by the city engineer, that a sloping grade shall be maintained to cause the flow of surface water to run away from the walls of the building.

(1) *Front yard.* A sloping grade, beginning at the sidewalk level, shall be maintained and established from the center of the front lot line to the finished grade line at the front of the building.

(2) *Rear and side yards.* The rear and side yards shall be sloped to allow for the flow of surface water away from the building without creating a nuisance to adjacent properties.

(3) *Exceptions.* This section shall not prevent the grading of a yard space to provide sunken or terraced areas, provided proper means are constructed and maintained to prevent the runoff of surface water from creating a nuisance to adjacent properties.

(b) *New construction on vacant lot.* When a new building is constructed on a vacant lot between two (2) existing buildings or adjacent to an existing building, the average finished grade of the adjacent building(s) shall be used in determining the grade around the new building. The yard around the new building shall be graded in such a manner as to meet existing grades and not to permit runoff of surface water to flow onto the adjacent properties.

(c) *Approval of final grades.* Final grades shall be approved by the building inspector only after a "certificate of grading and location of building within the City of Dearborn Heights" in accordance with the approved grading plan on file with the building and engineering department, has been duly completed and certified by a registered civil engineer or land surveyor.

(Ord. No. H-07-01, § 7.301, 7-24-07)

Sec. 36-287. Moving buildings.

(a) *Building permit required.* Any building or structure which has been wholly or partially erected on any premises located within the city shall not be moved to and be placed upon any other premises in the city until a building permit for such removal shall have been secured according to the provisions of section 36-5, Building permit.

(1) *Conformance with zoning ordinance.* Any such building or structure shall fully conform to all the provisions of this chapter in the same manner as a new building or structure.

(2) *Restriction on moving buildings.* No building or structure shall be moved into the city from outside the city limits.

(b) *Inspection required.* Before a permit may be issued for moving a building or structure, representatives from the building and engineering department and the city engineer shall inspect the same and shall determine if it is in a safe condition to be moved, whether it may be reconditioned to comply with the building code and other city requirements for the use and occupancy for which it is to be used, and whether it will be of similar character with the buildings in the area where it is to be moved.

(1) *Fees.* Special inspection fees may be charged to cover costs of inspecting the old site and the new site of the building or structure.

(c) *Utility disconnection.* Clearances must be obtained from all utility companies ensuring that utilities are discontinued to the building to be moved and all facilities accounted for.

(Ord. No. H-07-01, § 7.302, 7-24-07)

Sec. 36-288. Excavation and filling.

(a) *Prohibition.* The construction, maintenance, or existence within the city of any unprotected, open, or dangerous excavations, holes, pits, or wells that are reasonably likely to constitute a public danger is hereby prohibited.

(1) *Permitted excavation.* This section shall not prevent any excavation under a permit issued pursuant to this chapter or the building code of the city, where such excavations are properly protected and approved warning signs are posted. Excavations and holes created in conjunction with a construction project shall be adequately barricaded and illuminated if not filled in at the end of the working day. Where such excavations or holes are located in a public right-of-way, it shall be the responsibility of the contractor to notify the city police department of their existence.

(2) *Bodies of water.* This section shall not apply to streams or natural bodies of water; or to ditches, streams, reservoirs, or other major bodies of water created or existing by authority of any governmental agency.

(b) *Excavation, removal, and filling of land.* The use of land for the excavation, removal, filling, or depositing of any type of earth material, topsoil, gravel, rock, garbage, rubbish, or other wastes or by-products, is not permitted in any zoning district, except under a certificate from the building and engineering department in accordance with a topographic plan, approved by the city engineer and submitted by the owner of the property concerned.

(1) *Required plan elements.* The topographic plan shall be drawn at a scale of not less than fifty (50) feet to one (1) inch and shall show existing and proposed grades, topographic features, and such other data as may from time to time be required by the city engineer.

(2) *Surety.* Such certificate may be issued in appropriate cases upon the filing with the application of a surety bond executed by a surety company authorized to do business in the state, running to the city in an amount as established by the city engineer. The amount of the surety shall be sufficient to rehabilitate the property upon default of the operator of such excavating or filling operation, and to cover court costs and other reasonable expenses.

(3) *Exception.* This regulation does not apply to normal soil removal for basement or foundation work when a building permit has previously been duly issued by the building and engineering department.

(Ord. No. H-07-01, § 7.303, 7-24-07)

Sec. 36-289. Safety provisions.

(a) *Public service access.* All structures shall be provided with adequate access for fire, police, sanitation, and public works vehicles.

(b) *Fire protection.* All structures shall be provided with adequate fire protection, including adequate water supply for fire fighting purposes, adequate internal fire suppression system, use of fire walls and fire-proof materials, and other fire protection measures deemed necessary by the city fire chief or building official.

(1) *Fire protection systems.* The fire chief or building official shall have the authority to require fire protection systems installed in any zoning district.

(2) *Site development standards.* To facilitate fire protection during site preparation and construction of buildings, consideration shall be given to the following:

a. If public water is available, water mains and fire hydrants shall be installed prior to construction above the foundation. Hydrants shall be spaced to provide adequate fire fighting protection for all buildings and uses, subject to applicable codes and review by the city.

b. Prior to construction of buildings and other large structures, a hard surfaced roadbed shall be provided to accommodate access of heavy fire fighting equipment to the immediate job site at the start of construction. The roadbed shall be maintained until all construction is completed or until another means of access is constructed.

c. Free access from the street to fire hydrants and to outside connections for standpipes, sprinklers, or other fire extinguishing equipment, whether permanent or temporary, shall be provided and maintained at all times.

d. The building permit holder shall provide scheduled daily cleanup of scrap lumber, paper products, corrugated cardboard and other debris. Construction debris shall be disposed of in accordance with methods approved by the building official.

(c) *Building demolition.* Before a building or structure is demolished, the owner, wrecking company, or person who requests the demolition permit shall notify all utility companies providing service to the building. A demolition permit shall not be issued until all utility companies have provided notification that service has been properly terminated.

(Ord. No. H-07-01, § 7.304, 7-24-07)

Sec. 36-290. Reserved.

Sec. 36-291. Uses not otherwise cited.

General requirements. A land use which is not cited by name as a permitted use in a zoning district may be permitted upon determination by the planning commission that such use is clearly similar in nature and compatible with the listed or existing uses in that district. In making such a determination, the planning commission shall consider the following:

(1) *Determination of compatibility.* In making the determination of compatibility, the planning commission shall consider specific characteristics of the use in question and compare such characteristics with those of the uses which are expressly permitted in the district. Such characteristics shall include, but are not limited to, traffic generation, types of service offered, types of goods produced, methods of operation, and building characteristics.

(2) *Conditions by which use may be permitted.* If the planning commission determines that the proposed use is compatible with permitted and existing uses in the district, the commission shall then decide whether the proposed use shall be permitted by right, as a special or conditional use, or as a permitted accessory use. The proposed use shall be subject to the review and approval requirements for the district in which it is located. The planning commission shall have the authority to establish additional standards and conditions under which a use may be permitted in a district.

(3) *Use listed elsewhere.* No use shall be permitted in a district under the terms of this section if the use is specifically listed as a use permitted by right or as a special or conditional use in any other district.

(Ord. No. H-07-01, § 7.305, 7-24-07)

Secs. 36-293—36-300. Reserved.

ARTICLE VIII. SPECIAL DEVELOPMENT PROVISIONS

DIVISION 1. SIDEWALKS, DRIVEWAYS AND ROADS

Sec. 36-301. Sidewalks.

(a) *General requirements.*

(1) *Sidewalks required.* To provide for a continuous network of sidewalks and pedestrian paths; ensure safe and convenient pedestrian and non-motorized travel; and improve barrier-free access to sites in the city, it shall be the policy of the city to require installation, extension, or modification of public sidewalks and sidewalk connectors to primary building entrances to serve uses and developments subject to site plan approval, condominium site plan approval, or planned unit development approval.

(2) *Signage.* The planning commission may require installation of signage for the purposes of safety where it is necessary to separate vehicular traffic from pedestrian and bicycle traffic, or where it is necessary to alert vehicular traffic of the presence of the sidewalks.

(3) *Maintenance.* The owner of the property which fronts on the sidewalk shall be responsible for maintenance of the sidewalk, including patching cracked or deteriorated pavement, snow removal, and removal of glass and other debris. The property owner shall be liable for damages in the event that a person is injured while using a sidewalk that said property owner has not properly maintained.

(4) *Permits.* It shall be the responsibility of the owner or developer to secure any required permits from the city to allow sidewalk construction in the road right-of-way.

(b) *Standards.* Installation, extension, or modification of public sidewalks and sidewalk connectors shall be subject to the following:

(1) *Location and width.* Required sidewalks shall be five (5) feet in width and shall be located one (1) foot off the property line in the road right-of-way.

a. Where the planned right-of-way is greater in width than the existing right-of-way, the sidewalk shall be located one (1) foot inside the planned right-of-way.

b. The planning commission may modify this requirement in consideration of the location of utilities, existing landscaping, or other site improvements.

(2) *Design standards.* Sidewalks shall be constructed of concrete in accordance with established engineering standards for the city and shall be subject to city engineer inspection and approval.

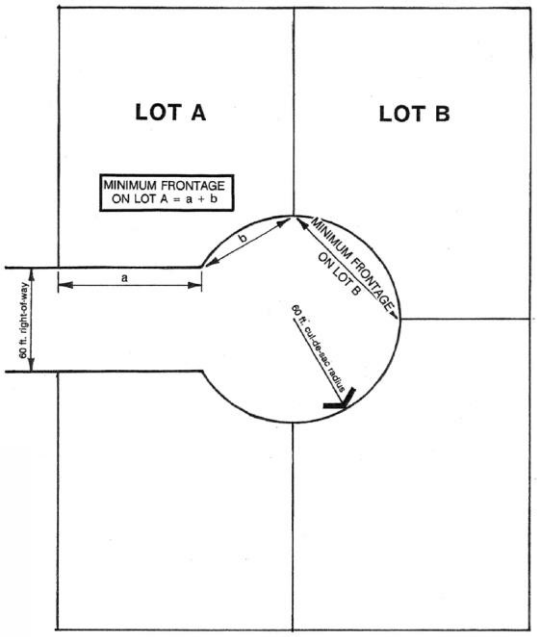
(3) *Alignment with adjacent sidewalks.* Sidewalks shall be aligned horizontally and vertically with existing sidewalks on adjacent properties. The planning commission may modify this requirement if existing adjacent sidewalks are not constructed in conformance with the standards set forth herein.

(Ord. No. H-07-01, § 8.101, 7-24-07)

Sec. 36-302. Streets, roads, and other means of access.

(a) *Intent.* Unimpeded, safe access to parcels of land throughout the city is necessary to provide adequate police and fire protection, ambulance services, and other public services, and to otherwise promote and protect the health, safety, and welfare of the public. Accordingly, minimum standards and specifications are required for private roads to assure safe and quick access to private property, and to permit the eventual upgrading and dedication of such access rights-of-way to the Roads Division of the Wayne County Department of Public Services or other appropriate municipal corporation if public dedication is deemed necessary or desirable. The standards and specifications set forth herein are determined to be the minimum standards and specifications necessary to meet the above stated intentions.

(b) *Public access required.* The front lot line of all lots shall abut onto a publicly dedicated road right-of-way or onto an approved private road or drive which complies with the requirements set forth herein. The required frontage on an approved road right-of-way or easement shall be equal to or greater than the minimum lot width for the district in which the lot is located, as specified in article V; except that the minimum frontage of lots that abut the turnaround at the end of a cul-de-sac shall be equal to or greater than fifty (50) percent of the minimum lot width. On lots located on a curve, frontage shall be measured along a straight line between the two (2) points where the side lot lines intersect the curved right-of-way line (see drawing). Frontage on a "T" turnaround shall not be counted toward the minimum road frontage requirements. No person shall construct, alter, or extend a private road unless in compliance with these requirements.



(c) *General requirements.* Roads and driveways shall comply with the pavement width and curb and gutter requirements set forth in this section. Roads and driveways shall comply with all applicable city engineering standards and ordinances, as well as the current requirements of Wayne County.

(1) *Pavement required.* All roads and driveways shall be paved.

(2) *Curb and gutter required.* All roads shall be installed with six-inch high concrete curb and gutter, except for driveways to individual units and circulation routes through parking lots.

(d) *Standards by road or driveway type.*

Residential	*ROAD WIDTH*	
Single-family detached development	27 feet	
Single-family attached development (e.g., townhouses, cluster development)	24 feet	
Multiple-family residential development	24 feet	
Collector street[1], no on-street parking	27 feet	
Collector street[1], parking on one side only	31 feet	
Driveways to individual lots or units	9 feet	
Entrance road[2], residential	27 feet	
Roads or driveways within a parking area	—	See section 36-366
Mobile home parks	—	See section 36-235
Commercial, Office, or Industrial	**ROAD WIDTH**	
Road serving two or more parcels (e.g., office or industrial park)	31 feet	

Main access driveways	31 feet	
Truck circulation routes	31 feet	
Entrance road[2], commercial or industrial	31 feet	
Main access driveways and /or truck circulation routes serving not more than three industrial parcels of 2 acres or less	27 feet	
Internal circulation routes not used by trucks	24 feet	
Roads or driveways within a parking area	—	See section 36-366
Miscellaneous	**ROAD WIDTH**	
Boulevard entrances with minimum 16 foot wide median	18 feet each direction	
Secondary access or frontage roads	20 feet	30 foot setback from edge of parallel road
"T" turnarounds or hammerheads (only for stub streets with no dwelling units fronting on them)	o 30 ft. long (measured from centerline) o 15 ft. wide o 25 ft. guardrail at end of road	
Cul-de-sacs (to be constructed at the end of all dead-end roads, regardless of plans for expansion in the future)	o 50 ft. radius right-of-way/easement o 40 ft. radius pavement	

[1] A residential collector street collects and distributes traffic between lower-order residential streets and higher-order streets or major activity centers. A residential collector street typically carries between one thousand (1,000) and three thousand (3,000) vehicles per day.

[2] The entrance road extends from the edge of the public road to the edge of any parking lot, intersection, tee, or similar terminus within the development.

(e) *Access across residential district land.* No land which is located in a residential district shall be used for a driveway, walkway, or access purposes to any land which is located in a nonresidential district, unless such access is by way of a public road.

(f) *Private roads or streets.* Lots or building sites may be created with frontage on private roads (in subdivision or condominium projects) or streets provided that such lots or building sites conform to all requirements of the district in which the land is located.

(g) *Service roads.* If the planning commission determines that proposed or anticipated development will result in an excessive number of entrance or exit drives onto a public road, thereby creating potentially hazardous traffic conditions and diminishing the carrying capacity of the road, the commission may permit or require construction of service roads across abutting parcels and generally parallel to the arterial street to allow traffic to circulate from one parcel to another without re-entering the public road. The front edge of any such secondary access drive shall be located no closer to the road than the future right-of-way line. Such secondary access drive shall conform to the minimum specifications for roads as set forth in this article.

(h) *Performance guarantee.* To assure completion of a service road in conformance with the requirements set forth herein, the building official may require the applicant or owner to provide a performance guarantee, in accordance with section 36-341.

(Ord. No. H-07-01, § 8.102, 7-24-07)

Sec. 36-303. Clear vision areas.

(a) No fence, wall, structure, or planting shall be erected, established, or maintained on any lot which will obstruct the view of drivers in vehicles approaching an intersection of two (2) roads or the intersection of a road and a driveway. Fences, walls, structures, or plantings located in the triangular area described below shall not be permitted to obstruct cross-visibility between a height of thirty (30) inches and eight (8) feet above the lowest point of the intersecting road(s).

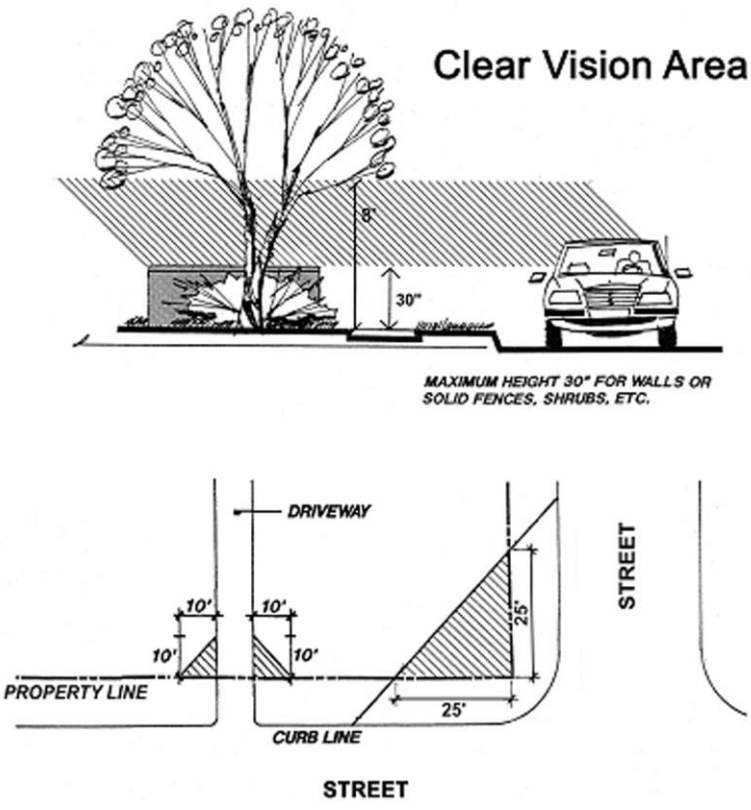
(1) Trees shall be permitted in the triangular area provided that limbs and foliage are trimmed so that they do not extend into the cross-visibility area or otherwise create a traffic hazard.

(2) Landscaping, except required grass or ground cover, shall not be located closer than three feet from the edge of any driveway or road pavement within the triangular area.

(b) The unobstructed triangular clear vision area is described as follows (see illustration below):

(1) The area formed at the corner intersection of two (2) public right-of-way lines, the two (2) sides of the triangular area being twenty-five (25) feet in length measured along abutting public rights-of-way lines, and third side being a line connecting these two (2) sides, or

(2) The area formed at the corner intersection of a public right-of-way and a driveway, the two (2) sides of the triangular area being ten (10) feet in length measured along the right-of-way line and edge of the driveway, and the third side being a line connecting these two (2) sides.



(Ord. No. H-07-01, § 8.103, 7-24-07)

Secs. 36-304—36-310. Reserved.

DIVISION 2. UTILITIES

Sec. 36-311. Water supply and sewers.

Connection required to public utilities. All principal buildings shall be connected to publicly owned and operated water and sanitary sewer service systems at the time of construction or expansion.

(Ord. No. H-07-01, § 8.201, 7-24-07)

Secs. 36-312—36-315. Reserved.

DIVISION 3. WETLANDS, WATERCOURSES AND FLOOD HAZARDS PROVISIONS

Sec. 36-316. Wetlands and bodies of water.

Setback from regulated wetlands and watercourses. An undisturbed open space setback of not less than fifty (50) feet shall be maintained from the edge of any stream, pond, lake, or other body of water. An undisturbed open space setback of not less than twenty-five (25) feet shall be maintained from the edge of any wetland or open drain. Such setbacks shall be measured from the top of the bank or other defined edge, and shall not be subject to topography.

(1) Trails, boardwalks, observation platforms, or similar passive recreational improvements may be provided within the required setback, subject to approval from the Michigan Department of Environmental Quality (MDEQ).

(2) Detention basins and similar storm water management facilities may be constructed within the required setback, provided that appropriate replacement plantings are provided and maintained, subject to the approval from the Michigan Department of Environmental Quality (MDEQ).

(Ord. No. H-07-01, § 8.301, 7-24-07)

Sec. 36-317. Flood hazard area overlay zone.

(a) *Purpose.* It is the purpose of this section to significantly reduce hazards to persons and damage to property as a result of flood conditions in the city, and to comply with the provisions and requirements of the National Flood Insurance Program, as constituted in accordance with the National Flood Insurance Act of 1968, as amended, and subsequent enactments, and the rules and regulations promulgated in furtherance of this program by the Federal Emergency Management Agency, as published in the Federal Register, Vol. 41, No. 207, Tuesday, October 26, 1976, and re-designated as 44 CFR 31177, May 31, 1979.

(b) *Objectives.* The objectives of this section include:

(1) The protection of human life, health, and property from the dangerous and damaging effects of flood conditions;

(2) The minimization of public expenditures for flood control projects, rescue and relief efforts in the aftermath of flooding, repair of flood damaged public facilities and utilities, and the redevelopment of flood damaged homes, neighborhoods and commercial and industrial areas;

(3) The prevention of private and public economic loss and social disruption as a result of flood conditions;

(4) The maintenance of stable development patterns not subject to the blighting influence of flood damage;

(5) To ensure that the public has access to information indicating the location of land areas subject to periodic flooding; and

(6) To preserve the ability of floodplains to carry and discharge a base flood.

(c) *Delineation of flood hazard area overlay zone.* The flood hazard area overlay zone shall overlay existing zoning districts delineated on the official zoning map of the city. The boundaries of the flood hazard area overlay zone shall coincide with the boundaries of the areas indicated as within the limits of the 100-year flood area as currently defined by the Federal Emergency Management Agency (FEMA).

(1) *Compliance required.* In addition to other requirements of this section applicable to development in the underlying zoning districts, compliance with the requirements of this section shall be necessary for all development occurring within the flood hazard area overlay zone.

(2) *Disputes.* Where there are disputes as to the location of a flood hazard area overlay zone boundary, the zoning board of appeals shall resolve the dispute in accordance with the provisions of this chapter.

(3) *Conflicts with other ordinances.* Conflicts between the requirements of this section, other requirements of this chapter, or any other ordinance shall be resolved in favor of this section, except where the conflicting requirement is more stringent and would further the objectives of this section to a greater extent than the requirements of this section. In such cases, the more stringent requirement shall be applied.

(d) *Use and principal structure regulations.* Within the flood hazard area overlay zone, no land shall be used except for one (1) or more of the following uses:

(1) Parks, picnic areas, playgrounds, playfields, athletic fields, golf courses, other outdoor recreational uses, nature paths, and trails.

(2) Wildlife preserves.

(3) Fishing in compliance with current laws and regulations.

(4) Historic sites and structures.

(5) Landscaping, screening, and required open space or lot area for structural uses that are landward of the overlay zone.

(e) *Accessory buildings, structures, and uses.*

(1) *Consistency.* Any accessory use in a flood hazard area overlay zone shall be used in a manner consistent with the requirements of accessory buildings, structures, and uses in the underlying district, in addition to the requirements below.

(2) *Permitted uses.* Within the flood hazard area overlay zone, no building, structure, or use shall be permitted except for one (1) or more of the following, in accordance with provisions of this section:

a. Off-street parking, streets, roads, and bridges.

b. Outdoor play equipment.

c. Sheds and garages.

d. Boathouses, boat hoists, utility lines, and pump houses.

e. Bleachers.

f. Riverbank protection structures.

g. Signs.

h. Fences.

i. Gazebos.

j. Similar outdoor equipment and appurtenances.

(3) *Supplemental requirements.* In all cases, the following requirements shall be met:

a. The building or structure shall not cause an increase in water surface elevation, obstruct flow, or reduce the impoundment capacity of the floodplain.

b. All equipment, buildings, and structures shall be anchored so as to prevent flotation and lateral movement.

c. Compliance with these requirements shall be certified by a registered engineer.

(f) *Filling and dumping.* Dredging and filling and/or dumping or backfilling with any material in any manner is prohibited, unless, through compensating excavation and shaping of the floodplain, the flow and impoundment capacity of the floodplain will be maintained or improved, and unless all applicable federal, state, and city regulations are met, including, but not limited to, approvals pursuant to Act 245 of the Public Acts of 1929, as amended by Act 167 of the Public Acts of 1968; Act 347 of the Public Acts of 1972, as amended; Act 346 of the Public Acts of 1972, as amended; and Act 203 of the Public Acts of 1979, as amended.

(g) *General standards for flood hazard reduction.*

(1) *Permit required.* No building or structure shall be erected, converted, or substantially improved or placed, and no land filled or building or structure used in a flood hazard area overlay zone unless a building permit, or a variance from the zoning board of appeals, is obtained, which approval shall not be granted until a permit from the Michigan Department of Environmental Quality under authority of Act 245 of the Public Acts of 1929, as amended by Act 167 of the Public Acts of 1968, has been obtained.

(2) *Public utility location.* All public utilities and facilities shall be designed, constructed, and located to minimize or eliminate flood damage.

(3) *Site plan review.* Site plans shall be reviewed in accordance with article XIV, division 2, Site plan review, to determine compliance with the standards of this chapter.

(4) *Land division.* Land shall not be divided in a manner creating parcels or lots which cannot be used in conformance with the requirements of this chapter.

(5) *Alteration or relocation of watercourses.* The flood-carrying capacity of any altered or relocated watercourse not subject to state or federal regulations designed to ensure flood-carrying capacity shall be maintained.

(6) *Data sources.* Available flood hazard data from federal, state, or other sources shall be reasonably utilized in meeting the standards of this section. Data furnished by the Federal Insurance Administration shall take precedence over data from other sources.

(h) *Disclaimer of liability.*

(1) The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study. Approval of the use of land under this section shall not be considered a guarantee or warranty of safety from flood damage.

(2) This section does not imply that areas outside the flood hazard area overlay zone will be free from flood damage. This section does not create liability on the part of the city or any officer or employee thereof for any flood damage that results from reliance on this section or any administrative decision lawfully made hereunder.

(i) *Floodplain management administrative duties.*

(1) *Responsibilities.* With regard to the National Flood Insurance Program, and the regulation of development within the flood hazard area overlay zone as prescribed in this section, the duties of the building official and/or the community and economic development director shall include, but are not limited to:

a. *Notice of proposed alteration or relocation of watercourses.* Notification to adjacent communities and the Michigan Department of Environmental Quality of the proposed alteration or relocation of any watercourse, and the submission of such notifications to the Federal Insurance Administration.

b. *Record of variances.* Recording of written notification to all applicants to whom variances are granted in a flood hazard area overlay zone indicating the terms of the variance, the potential increased danger to life and property, and that the cost of flood insurance will increase commensurate with the increased flood risk. A record of all variance notifications and variance actions shall be maintained, together with the justification for each variance.

(2) *Records and maps.* All records and maps pertaining to the National Flood Insurance Program shall be maintained in the office of the building official and/or the community and economic development director and shall be open for public inspection.

(3) *Best available data.* It shall be the responsibility of the building official and/or the community and economic development director to obtain and utilize the best available flood hazard data for purposes of administering this section in the absence of data from the Federal Insurance Administration.

(j) *Flood hazard area overlay zone mapping disputes.*

(1) *Hearing by zoning board of appeals.* Where disputes arise as to the location of the flood hazard area boundary or the limits of the floodway, the zoning board of appeals shall resolve the dispute and establish the boundary location. In all cases, the decision of the zoning board of appeals shall be based upon the most current floodplain studies issued by the Federal Insurance Administration. Where Federal Insurance Administration information is not available, the best available floodplain information should be utilized.

(2) *Grounds for boundary revision.* Where a dispute involves an allegation that the boundary is incorrect as mapped and Federal Insurance Administration floodplain studies are being questioned, the zoning board of appeals shall modify the boundary of the flood hazard area or the floodway only upon receipt of an official letter of map amendment issued by the Federal Insurance Administration.

(3) *Evidence permitted.* All parties to a map dispute may submit technical evidence to the zoning board of appeals.

(k) *Flood hazard area overlay zone variances.*

(1) *Standards.* Variances from the provisions of this section shall only be granted by the zoning board of appeals upon a determination of compliance with the general standards for variances contained in this section and each of the following specific standards:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

c. A determination that the granting of a variance will not result in a harmful increase in flood heights, additional threats to public safety or extraordinary public expense, or create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.

(2) *Minimum for relief.* The variance granted shall be the minimum necessary, considering the flood hazard, to afford relief to the applicant.

(3) *Conditions.* The zoning board of appeals may attach conditions to the granting of a variance to ensure compliance with the standards contained in this section.

(4) *Historic properties.* Variances may be granted for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Michigan Register of Historic Sites, or any other state register of historic places without regard to the requirements of this section governing variances in flood hazard areas.

(Ord. No. H-07-01, § 8.302, 7-24-07)

Secs. 36-318—36-325. Reserved.

DIVISION 4. CONDOMINIUM REGULATIONS

Sec. 36-326. General requirements.

(a) *Purpose.*

(1) The purpose of this section is to regulate projects that divide real property under a contractual arrangement known as a condominium. New and conversion condominium projects shall conform to the requirements of this chapter, all other applicable city regulations, and the Condominium Act (P.A. 59 of 1978, as amended). Each condominium project shall be reviewed in a manner consistent with equivalent projects within the zoning district.

(2) Pursuant to the authority conferred by the Condominium Act (P.A. 59 of 1978, as amended), condominium subdivision plans shall be regulated by this chapter as site condominiums, and shall be considered equivalent to a platted subdivision for the purposes of enforcing the city's site development standards. It is the intent of this section to ensure that:

(3) Review of condominium subdivision (site condominium) plans be accomplished, aside from procedural differences, with the objective and intent of achieving the same results as if the site were to be developed under the Land Division Act (P.A. 288 of 1967, as amended), except that nothing in this article shall be construed to require a site condominium development to obtain plat approval.

(4) Condominium subdivisions are developed in compliance with all applicable standards of this chapter and the Land Division Act (P.A. 288 of 1967, as amended), except that the review procedures of this article and chapter shall apply.

(b) *Condominium unit requirements.* The following regulations shall apply to all condominium units:

(1) *Types of permitted condominium units.* The following types of condominium units shall be permitted under this article, subject to conformance with the use and zoning district standards of this chapter:

a. *Site condominiums.* A site condominium project is one that is designed to function in a manner similar to, or as an alternative to a platted subdivision, and as such, shall be subject to the following:

1. Each site condominium lot shall be considered the equivalent of a platted lot of record as defined in the Land Division Act (P.A. 288 of 1967, as amended), and shall comply with the minimum floor space, height of building, lot size, density, and all other requirements set forth in article V (Schedule of Regulations) for the zoning district in which the project shall be located.

2. Site condominium projects shall comply with the applicable design standards which have been developed for this type of development in the city, as described in article III of chapter 29 Subdivision regulations in the Code of Ordinances for the City of Dearborn Heights, the city's engineering design specifications, and other applicable ordinances and regulations, including requirements for roads, streets, blocks, lots, utilities, and storm drainage. These requirements and specifications are hereby incorporated and are made a part of this chapter by reference.

b. *Detached condominiums.* A detached condominium project is one that is designed to function in a manner similar to, or as an alternative to a platted subdivision, and as such, shall be subject to the following:.

1. Each detached condominium unit shall comply with the minimum floor space, height of building, lot size, density, and all other requirements set forth in article V (Schedule of Regulations) for the zoning district in which the project shall be located, and shall be considered the equivalent of a platted lot of record as defined in the Land Division Act (P.A. 288 of 1967, as amended).

2. Detached condominium projects shall comply with the applicable design standards which have been developed for this type of development in the city, as described in article III of chapter 29, Subdivision regulations in the Code of Ordinances for the City of Dearborn Heights, the city's engineering design specifications, and other applicable ordinances and regulations, including requirements for roads, streets, blocks, lots, utilities, and storm drainage. These requirements and specifications are hereby incorporated and are made a part of this chapter by reference.

c. *Attached residential or multiple-family residential units.*

1. Condominium buildings and units created by the construction of multiple or attached residential units containing individually owned condominium units, or by conversion of existing multiple-family or attached units or an existing building into residential condominium units shall comply with the minimum floor space, height of building, lot size, density, and all other requirements set forth in article V, (Schedule of Regulations) for the zoning district in which the project shall be located.

2. In addition, attached residential or multiple-family residential units projects shall comply with the applicable design standards which have been developed for this type of development in the city, as described in article III of chapter 29, Subdivision Regulations in the Code of Ordinances for the City of Dearborn Heights, the city's engineering design specifications, and other applicable ordinances and regulations, including requirements for roads, streets, blocks, lots, utilities, and storm drainage. These requirements and specifications are hereby incorporated and are made a part of this chapter by reference.

d. *Nonresidential condominium units.*

1. A nonresidential condominium project consisting of either new building construction or the conversion of an existing building into individual condominium units shall conform to all requirements of this chapter for the zoning district in which it shall be located.

2. In addition, nonresidential condominium projects shall comply with the applicable design standards which have been developed for this type of development in the city, and other applicable ordinances and regulations, including requirements for roads, streets, blocks, lots, utilities, and storm drainage. These requirements and specifications are hereby incorporated and are made a part of this chapter by reference.

(Ord. No. H-07-01, § 8.401, 7-24-07)

Sec. 36-327. Condominium review requirements.

An application for a condominium project shall be submitted and reviewed in accordance with the provisions for site plan review in section 36-494 (Application procedure) and section 36-497 (Plan review procedure and authorization), in addition to the following:

(1) *Conceptual plan review.* An applicant may file a written request for conceptual review of a conceptual condominium site plan by the planning commission, prior to submission of a condominium site plan for final review, in accordance with subsection 36-497(b). For condominium subdivision (site condominium) developments, conceptual condominium site plan review shall be considered the equivalent of an initial plat investigation, as specified in the Land Division Act (P.A. 288 of 1967, as amended).

(2) *Condominium site plan review.*

a. Upon determination that the site plans substantially complies with city ordinances and regulations, the site plans for a condominium project shall be placed the next available planning commission agenda. All required revisions must be completed prior to the site plan being placed on the planning commission agenda for review.

b. The planning commission shall approve, approve with conditions or deny the request for approval of the condominium documents, in accordance with subsection 36-497(e) (Authorization).

c. If the condominium plans are approved subject to conditions, the applicant shall submit four copies of the revised plans, indicating compliance with the conditions of approval, to the building department. Distribution of the revised condominium plans shall be in accordance with subsection 36-494(b).

Upon subsequent review and verification that all conditions of approval have been met, the planning consultant shall stamp all four copies of the plans "APPROVED," in accordance with subsection 36-497(f) (Recording of site plan action).

d. For site condominium developments, condominium site plan review shall be considered the equivalent of a tentative preliminary plat review, as specified in the Land Division Act (P.A. 288 of 1967, as amended).

(3) *Condominium document review.* The term "condominium documents" shall include the condominium subdivision plan (Exhibit B drawing), master deed and bylaws. Condominium documents shall be subject to the following:

a. Condominium documents may be submitted for review with the final site plan application or the condominium documents may be submitted for review after final site plan approval and engineering approval, subject to the requirements in subsection 36-338(b)(3).

b. Prior to the recording of the condominium documents for an approved condominium site plan, the planning commission shall review said documents to determine compliance with the approved condominium site plan and in compliance with subsection 36-497(e), Authorization, and the Condominium Act (P.A. 59 of 1978, as amended).

c. No installation or construction of any improvements or land balancing or grading shall be made or begun until the final condominium documents have been approved. No removal of trees and/or other vegetation shall be started at this time except for minor clearing required for surveying and staking purposes.

(4) *Modifications to an approved condominium site plan.* A condominium site plan approved in accordance with this chapter, but not recorded, may be subsequently modified subject to the requirements of subsection 14.209.I (Modifications to approved plans).

(5) *Modifications to a recorded condominium plan.*

a. The relocation of boundaries or any other change in the dimensions of a condominium unit or site condominium lot shall be considered an amendment to the condominium documents and condominium site plan. Relocation of condominium lot boundaries, as permitted in Section 48 of the Condominium Act (P.A. 59 of 1978, as amended), shall comply with the requirements of article V (Schedule of Regulations), and shall be subject to the review procedures specified in article XIV, division 2 (Site plan review).

b. Any property remaining after the formation of a new unit lot by the relocation of an existing condominium lot boundary, as permitted by Section 49 of the Condominium Act (P.A. 59 of 1978, as amended) shall comply with the requirements of article V (Schedule of Regulations) or shall be placed into common areas within the project.

c. All other modifications to a recorded condominium plan shall be subject to the requirements of subsection 14.209.I (Modifications to approved plans) and as set forth above in subsection 8.502.C (Condominium review requirements).

(6) *Condominium construction plans.* Detailed engineering or construction plans shall be reviewed in accordance with the provisions in subsection 14.209.A (Detailed engineering (Construction) plan review). For site condominium developments, condominium construction plan review shall be considered the equivalent of a final plat review, as specified in the Land Division Act (P.A. 288 of 1967, as amended).

(7) *Monuments.* All condominium subdivision (site condominium) projects shall be clearly marked with monuments as follows:

a. *Required.* Monuments shall be placed in the ground according to the following requirements, but it is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium project if the angle points can be readily re-established by reference to monuments along the sidelines of the streets.

b. *Construction.* Monuments shall be made of solid iron or steel bars at least one-half (½) inch in diameter and thirty-six (36) inches long and completely encased in concrete at least four (4) inches in diameter.

c. *Location.* Monuments shall be located in the ground at all angles in the boundaries of the condominium project; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the condominium project; at all points of curvature, points of

tangency, points of compound curvature, points of reverse curvature, and angle points in the side lines of streets and alleys; at all angles of an intermediate traverse line; and at the intersection of all limited common elements and all common elements.

1. *Reference.* If the required location of a monument is inaccessible or locating a monument would be impractical, it is sufficient to place a reference monument nearby, with the precise location clearly indicated on the plans and referenced to the true point.

2. *Steel rods.* If a monument point is required to be on a bedrock outcropping, a steel rod, at least one-half (½) inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight (8) inches.

d. *Set at grade.* All required monuments should be placed flush with the surrounding grade where practicable.

e. *Condominium unit corners.* Each site condominium unit corner shall be identified by monuments in the field consisting of iron or steel bars or iron pipes at least eighteen (18) inches long and one-half (½) inch in diameter, or other markers approved by the city's engineering consultant. Each condominium lot must be able to be defined by reference to appropriate condominium unit monuments.

f. *Timing.* The building official, upon recommendation of the city's engineering consultant, may waive the placing of any required monuments and markers for a reasonable time period on the condition that the proprietor deposits with the city clerk a performance guarantee in an amount sufficient for the installation of all required monuments and markers, per section 36-7 (Fees and performance guarantees). Cost estimates for completing such improvements shall be made or verified by the city's engineering consultant.

The period shall not exceed three hundred sixty-five (365) days after the date of condominium construction plan approval. The performance guarantee shall be returned to the proprietor upon receipt of a certificate by a licensed surveyor that the monuments and markers have been placed as required within the time specified. Failure to complete within the time period will lead to a forfeiture of the performance guarantee and the completion of the placement under the direction of the city's engineering consultant.

(Ord. No. H-07-01, § 8.402, 7-24-07)

Sec. 36-328. Plan information requirements.

An application for a condominium project shall be submitted and reviewed in accordance with the provisions for site plan review in section 36-494 (Application procedure), in addition to the following:

(1) *Conceptual site plan information.* The following information shall be included with a conceptual condominium site plan:

a. The name, address, and telephone and fax numbers for the applicant(s).

b. The name, address, and telephone and fax numbers of the professional person(s) responsible for preparing the subdivision design, for the design of public improvements, and for surveys.

c. The name, address, and telephone and fax numbers of the legal owner(s) or agent(s) of the property, including a description of the nature of each entity's interest (e.g. fee owner, option holder, lessee or land contract vendee).

d. The applicant's interest in the property.

e. Legal description of the property along with a vicinity map showing the general relationship of the proposed subdivision to the surrounding area.

f. The total acreage of the proposed condominium site, with the acreage for street rights-of-way, regulated wetlands, steep slopes, easements that cannot be included in residential lots, or other existing or proposed features that would prevent construction of a building or use of the site for residential purposes factor out resulting in the net acreage of the site.

g. The number of condominium units to be developed on the subject parcel, and density computation on a unit per acre basis.

h. The proposed approximate layout of streets, blocks, and lots.

i. The location of existing streets adjacent to the development, with details for the location and design of interior streets and access drives, and proposed connections to abutting streets.

j. Site drainage showing topography and flow directions, including computations of flows into storm sewers or retention or detention areas.

k. Existing conditions and characteristics of the site and adjacent land, including:

1. Specific locations and dimensions of wetland areas, wetland buffers, floodplain, and significant natural features such as tree stands, unusual slopes, streams, and water drainage areas. The gross land area of all wetland areas and proposed open space dedications shall be provided;

2. The approximate location and intended future use of existing structures on the site, if any;

3. Existing land use on surrounding properties;

4. Location of existing easements on the site.

m. The vehicular and pedestrian circulation system planned for the proposed development;

n. The approximate location, dimensions, and area of all parcels of land proposed to be set aside for park or playground use or other public use, or for the use of property owners in the proposed subdivision.

(2) *Final site plan requirements.* The following information shall be included with a condominium site plan:

a. *Site plan information.* All information required for a site plan review, as specified in section 36-495 (Required site plan information).

b. *Condominium documents.* The following information shall accompany all condominium documents submitted for review:

1. An application for condominium document review must be submitted to the building department in accordance with the provisions of subsection 36-494(a), as applicable, at the time of final plan review or within one (1) year after the date of approval of the condominium site plan by the planning commission, or such approval shall be deemed null and void, unless an extension subject to the requirements of subsection 36-499(4), is granted.

2. Upon submission of all required application materials (Condominium subdivision plan (exhibit B drawing), master deed and bylaws), the building department shall distribute such materials to the city attorney and planning and engineering consultant's according to subsection 36-494(b). to verify compliance with the approved condominium site plan and to ensure compliance with Condominium Act, P.A. 59 of 1978, as amended.

3. *Outside agency permits or approvals.* The applicant shall be responsible for obtaining all necessary permits or approvals from applicable outside agencies, prior to construction plan approval.

(Ord. No. H-07-01, § 8.403, 7-24-07)

Secs. 36-329—36-335. Reserved.

DIVISION 5. WIRELESS COMMUNICATION PROCEDURES AND STANDARDS

Sec. 36-336. Wireless communications facilities.

(a) *Purpose and goals.* The purpose of this section is to establish general guidelines for the citing of wireless communication facilities within the city. The goals of this section are to:

(1) Protect residential areas, community facilities, and historic sites from potential adverse impacts of towers and antennas;

(2) Encourage the location of towers in nonresidential areas;

(3) Minimize the total number of towers throughout the community;

(4) Strongly encourage colocation as a primary option instead of construction of new single-use towers;

(5) Minimize the adverse visual impact of towers and antennas through careful design, citing, landscape screening, and innovative camouflaging techniques;

(6) Enhance the ability of the providers of telecommunication services to provide such services to the community quickly, effectively, and efficiently;

(7) Promote the public health, safety, and welfare;

(8) Prevent potential damage to adjacent properties from tower failure through engineering and proper citing of tower structures; and

(9) Promote the timely removal of wireless communication facilities upon the discontinuance of use.

(b) *Definitions.* As used in this section, the following terms shall have the meanings set forth below:

* Alternative tower structure means man-made trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

* Antenna means any exterior transmitting or receiving device mounted on a tower, building, or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals, or other communication signals. Not included in this definition and not subject to regulation under this section are governmental facilities subject to state or federal law or regulations which preempt municipal regulatory authority.

* Back-haul network means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices and/or long distance providers, or the public switched telephone network.

* Colocation means the location by two or more wireless communication providers of antennas on a common structure, tower, or building, with the purpose of reducing the overall number of towers required to support antennas within the city.

* Height means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

* Pre-existing towers and pre-existing antennas mean any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this section, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

* Tower means any structure or support thereto that is designed and constructed primarily for the purpose of supporting one (1) or more antennas for telephone, radio, or similar communication purposes, including self supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. Not included in this definition and not subject to regulation under this section are governmental facilities subject to state or federal law or regulations that preempt municipal regulatory authority.

* Wireless communication facility means any antenna or tower as defined in this section.

(c) *Required materials for application.* The following information shall be provided with any application for approval of a wireless communication facility:

(1) *Site plan and special land use review.* A site plan in accordance with article XIV, division 2 shall be submitted, showing the location, size, screening and design of all buildings, outdoor equipment, and structures. In addition, the special land use approval procedures and standards in article XIV, division 3 shall be followed.

(2) *Landscape plan.* A detailed landscaping plan shall be submitted illustrating the number, species, location, and size at the time of planting of all proposed trees and shrubs. The purpose of landscaping is to provide screening and aesthetic enhancement for the structure base, accessory buildings and enclosure.

(3) *Structural specifications.* Structural specifications for the support structure and foundation shall be submitted for review. The structural specifications shall state the number of various types of antennas capable of being supported on the structure. A soils report prepared by a geotechnical engineer licensed in the State of Michigan shall also be submitted confirming that the soils on the site will support the structure. Structural plans shall be subject to review and approval by the city engineer.

(4) *Security.* The application shall include a description of security to be posted immediately upon issuance of a building permit for the facility to ensure removal of the facility when it has been abandoned or is no longer needed, as previously noted. The amount of security shall be determined by the city engineer. In this regard, the security shall, at the election of the applicant, be in the form of: (1) cash; (2) surety bond; (3) letter of credit; or, (4) an agreement in a form approved by the city attorney and recordable at the office of the register of deeds, establishing a promise of the applicant and owner of the property to remove the facility in a timely manner as required herein, with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorney's fees incurred by the city in securing removal.

(5) *Service area coverage documentation.* The application shall include a map showing existing and known proposed wireless communication facilities in the city and in areas surrounding communities, which are relevant in terms of potential colocation or in demonstrating the need for the proposed facility. If such information is on file with the community, the applicant shall be required only to update as needed. Any such information which is a trade secret and/or other confidential commercial information which, if released would result in commercial disadvantage to the applicant, may be submitted with a request for confidentiality in connection with the development of governmental policy {MCL 15.243(l)(g)}. This chapter shall serve as the promise to maintain confidentiality to the extent permitted by law. The request for confidentiality must be prominently stated in order to bring it to the attention of the city.

(6) *Contact person.* The application shall include the name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the facility is on the premises.

(7) *Insurance certificate.* The applicant shall submit a valid certificate of insurance, to be renewed annually, listing the city as the certificate holder and naming the city, its past, present and future elected officials, representatives, employees, boards, commissions and agents as additional named insured. The certificate shall also state that if any of the described policies are to be canceled before the expiration date thereof, the issuing company will mail thirty (30) days' written notice to the city as certificate holder. The city may require the applicant to supply a one thousand dollars ($1,000.00) cash bond to the city, which shall be used to reimburse administrative expenses in the event the certificate is allowed to lapse.

(d) *Review procedures.* In order to establish consistent procedures that ensure full compliance with the standards of this section, and to ensure that the review and required information is in direct proportion to the scale of the project being proposed, the following procedures shall apply to the construction, installation, replacement, co-location, alteration or enlargement of all wireless communication facilities within the city:

(1) *Type of review required.* Wireless communication facilities shall be reviewed in accordance with the following table:

Activity or Use	Applicable Standards	Required Review and Approval		
		Planning Commission	Administrative Review	Exempt
NEW TOWERS AND ANTENNAS				
Construction, alteration, or enlargement of towers in any zoning district	Subsection 36-336(e)	X		
Installation of a new antenna on an existing building or structure (but excluding colocation)	Subsection 36-336(f)		X	
COLOCATION ON EXISTING TOWERS				
Colocation of an antenna or antenna array on an existing tower			X	
SATELLITE DISH ANTENNAS				
Installation of a satellite dish antenna with a diameter less than 3 feet	Subsection 36-336(h)			X
Installation of a satellite dish antenna with a	Subsection 36-336(h)		X	

diameter greater than 3 feet				
AMATEUR RADIO ANTENNAS				
Installation of an amateur radio antenna for purposes of both transmission and reception	Subsection 36-336(g)		X	
OTHER PROJECTS				
Installation of: * citizen band radio facilities * short wave facilities * an amateur radio antenna for purposes of reception only	Subsection 36-336(g)			X
Repair, service, or maintenance of an existing approved tower or antenna, provided that all work is done in compliance with approved plans, permits, and applicable codes	Subsection 36-336(i)			X

(2) *Exempt facilities.* Activities listed as exempt from review shall be permitted by right, subject to the applicable standards of this section.

(3) *Facilities subject to administrative review.* Activities listed as subject to administrative review shall be subject to review and approval in accordance with the applicable standards of this section and the review procedures specified in subsection 36-497(e), Authorization.

(4) *Facilities subject to planning commission approval.* Activities listed as subject to planning commission review shall be subject to review and approval in accordance with the applicable standards of this section and the review procedures specified in subsection 36-497(e), Authorization.

(e) *Conditions and standards for wireless communication towers.* All applications for wireless communication facilities shall be reviewed in accordance with the standards in this chapter that apply generally to site plan review and special land use review, and subject to the following standards and conditions. If approved, such facilities shall be constructed and maintained in accordance with such standards and conditions and any additional conditions imposed by the planning commission.

(1) *Public health and safety.* Facilities and/or support structures shall not be detrimental to the public health, safety and welfare.

(2) *Harmony with surroundings.* Facilities shall be located and designed to be harmonious with the surrounding areas.

(3) *Compliance with federal, state and local standards.* Wireless communication facilities shall comply with applicable federal and state standards, including requirements promulgated by the Federal Aviation Administration (FAA), Federal Communication Commission (FCC), and Michigan Aeronautics Commission. Wireless communication support structures shall comply with all applicable building codes.

(4) *Location.*

a. Wireless communication towers shall be permitted per section 36-93, Table of permitted uses by district. In all other districts, towers in existence on the effective date of this chapter shall be permitted to remain, but may not be reactivated or replaced upon abandonment or removal.

b. A tower may be located on a lot containing other principal uses. A tower may be located within an area smaller than the minimum lot size of the zoning district provided the overall lot complies with the applicable minimum lot size for the existing principal use or is a legal nonconforming lot.

(5) *Maximum height.* Applicants shall demonstrate a justification for the proposed height of the structures and an evaluation of alternative designs that might result in lower heights. The maximum height of a new or modified support structure and antenna shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant (and by other entities to colocate on the structure), but shall not exceed one hundred fifty (150) feet. Higher towers may be permitted, however, if necessary to achieve colocation. The buildings, cabinets, and other accessory structures shall not exceed the maximum height for accessory structures in the zoning district in which the facility is located.

(6) *Minimum setbacks.*

a. The setback of a new or modified support structure from any residential-zoned district or existing or proposed right-of-way or other publicly traveled road shall be no less than the total height of the structure and attachments thereto.

b. Where the proposed new or modified support structure abuts a parcel of land zoned for a use other than residential, the support structure shall comply with the required setbacks for principal buildings specified in the schedule of regulations for the zoning district in which the facility is located.

c. Buildings and facilities accessory to the wireless communication facility (other than the support structure) shall comply with the required setbacks for principal buildings specified in the schedule of regulations for the zoning district in which the facility is located.

(7) *Access.* Unobstructed permanent access to the support structure shall be provided for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. The permitted type of surfacing, dimensions and location of such access route shall be subject to approval by the planning commission, based on evaluation of the location of adjacent roads, layout of buildings and equipment on the site, utilities needed to service the facility, proximity to residential districts, disturbance to the natural landscape, and the type of vehicles and equipment that will visit the site.

(8) *Division of property.* The division of property for the purpose of locating a wireless communication facility shall be permitted only if all zoning requirements, including lot size and lot width requirements, are met.

(9) *Equipment enclosure.* If an equipment enclosure is proposed as a building or ground-mounted structure, it shall comply with the required setbacks and other requirements specified for principal buildings in the schedule of regulations for the zoning district in which the facility is located. If an

equipment enclosure is proposed as a roof appliance on a building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building.

(10) *Design objectives.* The support structure and all accessory buildings shall be designed to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings. Accordingly, support structures shall be white and shall not have lights unless required otherwise by the Federal Aviation Administration (FAA). Equipment buildings shall have a brick exterior. No signs or logos visible from off-site shall be permitted on a support structure.

(11) *Fencing.* Wireless communication facilities shall be enclosed by an open weave, green vinyl-coated, chain link fence having a maximum height of six (6) feet. Barbed wire is not permitted.

(12) *Structural integrity.* Wireless communication facilities and support structures shall be constructed and maintained in structurally sound condition, using the best available technology, to minimize any threat to public safety.

(13) *Maintenance.* A plan for the long term, continuous maintenance of the facility shall be submitted prior to the issuance of a building permit. The plan shall identify who will be responsible for maintenance, and shall include a method of notifying the city if maintenance responsibilities change.

(14) *Screening.* The fenced site shall be completely screened on all sides by evergreen screening consisting of upright arborvitae ("Nigra," "Techny," or "Emerald") planted no farther than three and one-half (3½) feet apart. The plants shall be at least six (6) feet in height at the time of planting. Other evergreen trees or shrubs may be permitted, provided that the planning commission finds that the substitute plant material will provide a complete screen around the facility.

(15) *Removal.* A condition of every approval of a wireless communication facility shall be adequate provision for removal of all or part of the facility by users and owners upon the occurrence of one (1) or more of the following events:

a. When the facility has not been used for one hundred eighty (180) days or more. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of nonuse.

b. Six (6) months after new technology is available at reasonable cost, as determined by the planning commission, which permits the operation of the communication system without the requirement of the support structure.

1. The situations in which removal of a facility is required, as set forth in subsection (1) above, may be applied and limited to portions of a facility.

2. Upon the occurrence of one or more of the events requiring removal, the property owner or persons who had used the facility shall immediately apply for any required demolition or removal permits, and immediately proceed with and complete the demolition, removal, and site restoration.

3. If the required removal of a facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days' written notice, the city may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected and/or enforced from or under the security posted at the time application was made for establishing the facility.

(16) *Tower address.* Each wireless communication tower shall be designated with a specific and unique mailing address.

(f) *Standards for antennas located on structures.* The following shall apply to antennas located on principal or accessory structures, in addition to the provisions of subsection (e), as applicable:

(1) *Antenna attachment.* The antenna and support structure shall be permanently secured to the structure, and shall not exceed the structure height by more than ten (10) feet.

(2) *Aesthetics.* Any antenna and any supporting electrical and mechanical equipment installed on a structure other than a tower must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(g) *Standards for amateur radio antennas.* The following shall apply to all amateur radio antennas, in addition to the provisions of subsection (e), as applicable:

(1) *One (1) antenna per lot.* A maximum of one such antenna shall be permitted per zoning lot, with a minimum setback from all lot boundaries equal to one hundred (100) percent of its height. The lot must be of sufficient size to accommodate the required setback area.

(2) *Location.* Such antennas shall be accessory to a principal building on the same lot, and shall be located in the rear yard area.

(h) *Standards for satellite dish antennas.* The following shall apply to all satellite dish antennas, in addition to the provisions of subsection (e), as applicable:

(1) *One antenna per lot.* A maximum of one (1) such antenna shall be permitted per zoning lot, with a minimum setback from all lot boundaries equal to one hundred fifty (150) percent of the height of the antenna and support structure. The lot must be of sufficient size to accommodate the required setback area.

(2) *Maximum size.* No satellite dish antenna larger than ten (10) feet in diameter shall be permitted in any zoning district. The maximum height of the antenna shall be the maximum height permitted in the zoning district wherein located.

(3) *Location.* Such antennas shall be accessory to a principal building on the same lot, and shall be permanently installed on the principal building or located in the rear yard area such that the antenna is not visible from any street right-of-way.

(4) *Screening.* Ground-mounted satellite dish antennas shall be screened as much as possible from the view of adjacent properties through the use of landscaping and/or fencing.

(5) *Nonconforming installations.* Satellite dish antennas in existence on the effective date of this chapter and not in compliance with the provisions of this section shall be deemed to be nonconforming and shall not be moved or relocated without securing a permit for installation as provided by this section.

(i) *Existing towers and antennas.* Wireless communication facilities for which building permits have been issued prior to the effective date of this chapter shall be allowed to continue, provided that such facilities are continuously operated and maintained in accordance with subsection (e), above and all approved plans, permits, and conditions of approval.

(Ord. No. H-07-01, § 8.501, 7-24-07)

Secs. 36-337—36-340. Reserved.

DIVISION 6. PERFORMANCE STANDARDS AND OTHER PROCEDURES

Sec. 36-341. Performance standards.

No activity, operation or use of land, buildings, or equipment shall be permitted if such activity, operation, or use produces an environmental impact or irritant to sensory perception which exceeds the standards set forth in this section.

(1) *Intent and scope of application.*

a. *Intent.* The purpose of this section is to establish controls on the impacts generated by permitted uses so as to prevent an unreasonable negative impact that might interfere with another person's use of his or her property, or that might cause harm to the public health, safety, and welfare.

b. *Scope of application.* After the effective date of this chapter, no structure or tract of land shall hereafter be used or occupied, and no structure, or part thereof, shall be erected, altered, reconstructed, or moved, except in conformity with all applicable performance standards set forth in this article. No site plan shall be approved unless evidence is presented to indicate conformity with the requirements of this section.

c. *Submission of additional data.* Nothing in this section shall preclude the applicant or other interested party from submitting additional data or evidence related to a specific case. In consideration of such data or evidence, the planning commission may waive or modify the regulations set forth in this section, provided that the planning commission finds that no harm to the public health, safety and welfare will result and that the intent of this chapter will be upheld.

(2) *Noise.*

a. *Definitions.* The terms used in this section shall have the meaning ascribed to them as follows. Terms used in this section but not defined below or in article II shall have the meaning ascribed to them by the American National Standards Institute (ANSI) or its successor body.

A-weighted sound level: The sound pressure level in decibels as measured on a sound level meter using the A-weighing network. The level so read may be designated dB(A).

Day-night average sound level: The twenty-four-hour energy average of the A-weighted sound pressure level, with the levels during the period of 10:00 p.m. to 7:00 a.m. the following day increased by ten (10) dB(A) before averaging.

Emergency: Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate attention.

Impulsive sound: Sound of short duration, usually less than one (1) second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and discharge of firearms.

Noise: Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

Noise disturbance: Any sound which (a) endangers or injures the safety or health of humans or animals, or (b) annoys or disturbs a reasonable person of normal sensitivities, or (c) endangers or injures personal or real property. For the purposes of this chapter, a noise disturbance shall be further defined as any sound which exceeds the limits set forth in Table A, following, or other standards set forth in this section.

Noise sensitive zone: An area which contains noise-sensitive activities, such as but not limited to, operations of schools, libraries, churches, hospitals, and nursing homes.

Pure tone: Any sound which can be distinctly heard as a single pitch or a set of single pitches.

Sound: An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium.

Sound level: The weighted sound pressure level obtained by the use of a sound level meter and frequency weighing network (for the purposes of this chapter an A-weighted network), as specified by the American National Standards Institute.

Vibration: An oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity, or acceleration with respect to a given reference point.

Noise disturbances prohibited: No person shall unreasonably make, continue, or cause to be made or continued, any noise disturbance. Examples of noise disturbances include but are not limited to:

1. *Sounds which exceed limits in Table A.* Any sound which exceeds the limits set forth in Table A, following, shall be deemed a noise disturbance.
2. *Loading and unloading.* Loading and unloading, opening, closing, or other handling of boxes, crates, containers, building materials, garbage cans, or similar objects shall be prohibited between the hours of 8:00 p.m. and 7:00 a.m. in such a manner as to cause a noise disturbance across a residential district boundary or within a noise sensitive zone.
3. *Construction.* Operation of any tools or equipment used in construction, drilling, or demolition work shall be prohibited between the hours of 6:00 p.m. and 7:00 a.m. on weekdays or any time on Sundays or holidays, such that the sound therefore creates a noise disturbance across a residential district boundary or within a noise sensitive zone, except for emergency work of public service utilities.
4. *Vibration.* Operating of any device that creates vibration which is above the vibration perception threshold of an individual at or beyond the property of the source shall be prohibited. For the purposes of this section, "vibration perception threshold" means the minimum ground or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.
5. *Noise sensitive zones.* Creating of any sound within any noise sensitive zone so as to disrupt the activities normally conducted within the zone shall be prohibited, even if the average A-weighted sound level is lower than the values shown in Table A, provided that conspicuous signs are displayed indicating the presence of the zone.

    (i) *Exceptions: Emergency exceptions.* The provisions in this section shall not apply to (a) the emission of sound for the purpose of alerting persons to existence of an emergency, or (b) the emission of sound in the performance of emergency work.

    (ii) *Additional exceptions.* The provisions in this section shall not apply to the following activities, provided that such activities are conducted in a legally accepted manner:

    * Snow plowing, street sweeping, and other public works activities.

    * Agricultural uses.

    * Church bells, chimes, and carillons.

* Lawn care and house maintenance that occurs between 8:00 am and 9:00 pm.

* Licensed vehicles being operated on a road or street.

* Trains and aircraft when on the ground.

b. *Variances.*

1. An application for a variance from the provisions in this section may be submitted to the zoning board of appeals.

2. The owner or operator of equipment on the property shall submit a statement regarding the effects of sound from the equipment on the overall sound level in the area. The statement shall include a study of the background sound levels, predicted level on sound at the boundary line due to the proposed operation, and justification for the variance.

3. Upon review of the request for a variance, the zoning board of appeals may grant a variance where strict adherence to the permitted sound level would create unnecessary hardship and only if the variance will not create a threat to the health, safety, and welfare of the public. The zoning board of appeals may impose conditions of operation when granting a variance.

c. *Maximum permitted sound levels by receiving zoning district.* Sound emitted by any source is considered a noise disturbance when its average A-weighted sound level exceeds the limit set forth for the receiving zoning district in Table A, when measured at or within the property boundary of the receiving district.

Table A
Maximum Permitted Average
A-Weighted Sound Levels
Receiving Average Sound

Zoning District	Time	Level, db(A)
Residential	7:00 a.m. to 10:00 p.m.	55
Commercial/Office	7:00 a.m. to 6:00 p.m.	62
Industrial	6:00 p.m. to 7:00 a.m.	55

Notes:

1. *Correction for tonal sounds.* For any source of sound which emits a pure tone sound, the maximum sound level limits in Table A shall be reduced by five (5) dB(A) where the receiving district is residential or commercial-noise sensitive.

2. *Correction for impulsive or impact-type sounds.* For any source of sound which emits an atypical impulsive or impact-type sound, the maximum sound level limits in Table A shall be reduced by five (5) dB(A) where the receiving district is residential or commercial-noise sensitive.

3. *Planned development.* Where the receiving district is a planned development district, the applicable standard in Table A shall be based on the types of uses within the planned development.

4. *Permitted land use.* No new or substantially modified structure shall be approved for construction unless the owner or developer of such land demonstrates that the completed structure and the activities associated with and on the same property as the structure will

not generate a noise disturbance as set forth in this section at the time of initial full-scale operation of such activities.

(3) *Dust, soot, dirt, fly ash and products of wind erosion.*

a. Dust, smoke, soot, dirt, fly ash, and products of wind erosion shall be subject to the regulations established in conjunction with the Air Pollution Act, Michigan Public Act 348 of 1965, as amended, or other applicable state or federal regulations. No person, firm or corporation shall operate or maintain any process for any purpose, or furnace or combustion device for the burning of coal or other natural or synthetic fuels, unless such processes or devices use or are equipped with recognized and approved equipment, methods, or technology to reduce the quantity of gas-borne or airborne solids or fumes emitted into the open air.

b. The drifting of air-borne matter beyond the lot line, including wind-blown dust, particles or debris from open stock piles, shall be prohibited. Emission of particulate matter from materials, products, or surfaces subject to wind erosion shall be controlled by paving, oiling, wetting, covering, landscaping, fencing, or other means.

(4) *Odor.* Offensive, noxious, or foul odors shall not be allowed to escape into the atmosphere in concentrations which are offensive, which produce a public nuisance or hazard on adjoining property, or which could be detrimental to human, plant, or animal life.

(5) *Glare and heat.* Any operation or activity which produces glare shall be conducted so that direct and indirect illumination from the source of light does not exceed one-half (½) of one (1) footcandle when measured at any point along the property line of the site on which the operation is located. Any operation, which produces intense glare or heat, shall be conducted within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot lines. If heat is a result of an industrial operation, it shall be so insulated as to not raise the temperature at any property line at any time.

(6) *Fire and safety hazards.*

a. *General requirements.* The storage and handling of flammable liquids, liquefied petroleum gases, and explosives shall comply with all applicable state, county and local regulations, including the state Fire Prevention Act, Michigan Public Act 207 of 1941, as amended.

b. *Storage tanks.*

1. All storage tanks for flammable liquid materials above ground shall be located at least one hundred and fifty (150) feet from all property lines, and shall be completely surrounded by earth embankments, dikes, or another type of approved retaining wall capable of containing the total capacity of all tanks so enclosed. These provisions shall not apply to approved tanks which hold propane or other fuel used for heating a dwelling or other building on the site.

2. Below-ground bulk storage tanks which contain flammable material shall be located no closer to the property line than the distance to the bottom of the buried tank, measured at the point of greatest depth. All underground tanks shall be registered with the Michigan Department of Natural Resources, in accordance with Michigan Public Act 165 of 1985, as amended.

c. *Detonable materials.*

1. The storage, utilization, or manufacture of detonable materials shall be permitted subject to approval by the fire chief with the following restrictions:

Proposed Activity	Restrictions

Storage, Utilization or Manufacture of 5 lbs. or less in I-2 District	Permitted Accessory Use
Storage or Utilization of Over 5 lbs	Special Land Use in I-2 District
Manufacture of Over 5 lbs.	Not Permitted

2. Detonable materials covered by these requirements include, but are not necessarily limited to the following:

   (i) All primary explosives such as lead azide, lead styphnate, fulminates, and tetracene.

   (ii) All high explosives such as TNT, RDX, HMX, PETN, and picric acid.

   (iii) Propellants and components thereof such as dry nitrocellulose, black powder, boron hydrides, and hydrazine and its derivatives.

   (iv) Pyrotechnics and fireworks such as magnesium powder, potassium chlorate, and potassium nitrate.

   (v) Blasting explosives such as dynamite and nitroglycerine.

   (vi) Unstable organic compounds such as acetylides, tetrazoles, and ozonides.

   (vii) Strong unstable oxidizing agents such as perchloric acid, perchlorates, and hydrogen peroxide in concentrations greater than thirty-five (35) percent.

   (viii) Nuclear fuels, fissionable materials and products, and reactor elements such as Uranium 235 and Plutonium 239.

(7) *Sewage wastes and water pollution.* Sewage disposal (including septic systems) and water pollution shall be subject to the standards and regulations established by federal, state, county and local regulatory agencies, including the Michigan Department of Health, the Michigan Department of Natural Resources, Michigan Department of Environmental Quality, the Wayne County Health Department, and the U. S. Environmental Protection Agency.

(8) *Gases.* The escape of or emission of any gas which is injurious or destructive to life or property, or which is explosive, is prohibited. Gaseous emissions shall be subject to regulations established in conjunction with the Air Pollution Act, Michigan Public Act 348 of 1965, as amended, the federal Clean Air Act of 1963, as amended, and any other applicable state or federal regulations. Accordingly, gaseous emissions measured at the property line at ground level shall not exceed the levels indicated in the following table, which is based on the National Ambient Air Quality Standards, unless a higher standard is imposed by a federal, state, county or local regulatory agency which has jurisdiction:

Gas	Maximum Emissions Level	Sampling Period
Sulfur dioxide	0.14ppm	24 hours
Hydracarbons	0.24ppm	3 hours
Photochemical oxidants	0.12ppm	1 hour
Nitrogen dioxide	0.05ppm	Annual
Carbon monoxide	9.0ppm	8 hours
	35.0ppm	1 hour
Lead	1.5 ug/cubic meter	3 months
Mercury	0.01 mg/cubic meter	10 hours
Beryllium	2.0 ug/cubic meter	8 hours
Asbestos	0.5 fibers/cc	8 hours

(9) *Electromagnetic radiation and radio transmission.* Electronic equipment required in an industrial, commercial, or other operation shall be designed and used in accordance with applicable rules and regulations established by the Federal Communications Commission (FCC). The operation of such equipment shall not interfere with the use of radio, television, or other electronic equipment on surrounding or nearby property.

(10) *Radioactive materials.* Radioactive materials, wastes and emissions, including electromagnetic radiation such as from an x-ray machine, shall not exceed levels established by federal agencies which have jurisdiction. No operation shall be permitted that causes any individual outside of the lot lines to be exposed to any radiation exceeding the lowest concentration permitted for the general population by federal and state laws and regulations currently in effect.

(11) *Procedures of determining compliance.* In the event that the city receives complaints or otherwise acquires evidence of possible violation of any of the performance standards set forth in this section, the following procedures shall be used to investigate, and if necessary, resolve the violation:

a. *Official investigation.*

1. Upon receipt of evidence of possible violation, the building official shall make a determination whether there is reasonable cause to suspect the operation is indeed in violation of the performance standards. The building official may initiate an official investigation in order to make such a determination.

2. Upon initiation of an official investigation, the building official is empowered to require the owner or operator of the facility in question to submit data and evidence deemed necessary to make an objective determination regarding the possible violation. Failure of the owner or operator to supply requested data shall constitute grounds for taking legal action to terminate the use and/or deny or cancel any permits required for continued use of the land. Data which may be required includes, but is not limited to the following:

(i) Plans of the existing or proposed facilities, including buildings and equipment.

(ii) A description of the existing or proposed machinery, processes, and products.

(iii) Specifications for the mechanisms and techniques used or proposed to be used to control emissions regulated under the provisions of this section.

(iv) Measurement of the amount or rate of emissions of the material purported to be in isolation.

b. *Method and cost of determination.*

1. The building official or his designee shall take measurements and complete investigation necessary to make an objective determination concerning the purported violation. Where required, measurements and investigation can be accurately made by the building official or his designee using equipment and personnel normally available to the city without extraordinary expense, such measurements and investigation shall be completed before notice of violation is issued. If necessary, skilled personnel and specialized equipment or instruments shall be secured in order to make the required determination.

2. If the alleged violation is found to exist in fact, the costs of making such determination shall be charged against those responsible, in addition to such other penalties as may be appropriate. If it is determined that no substantive violation exists, then the costs of this determination shall be paid by the city.

c. *Appropriate remedies.* If, after appropriate investigation, the building official or his designee determines that a violation does exist, the building official shall take or cause to be taken lawful action as provided by this chapter to eliminate such violation. The owners or operators of the facility deemed responsible shall be given written notice of the violation. The building official shall take appropriate action in accordance with the owner or operator's response to the notice of violation. Appropriate action includes the following:

1. *Correction of violation within time limit.* If the alleged violation is corrected within the specified time limit, even if there is no reply to the notice, the building official shall note "violation corrected" on the city's copy of the notice, and the notice shall be retained on file. If necessary, the building official may take other action as may be warranted by the circumstances of the case, pursuant to the regulations in this and other ordinances.

2. *Violation not corrected and no reply from owner or operator.* If there is no reply from the owner or operator within the specified time limits (thus establishing admission of violation, as provided in subsection (11)a), and the alleged violation is not corrected in accordance with the regulations set forth in this article, then the building official shall take such action as may be warranted to correct the violation.

3. *Reply requesting extension of time.* If a reply is received within the specified time limit indicating that an alleged violation will be corrected in accordance with the regulations set forth in the zoning ordinance, but that more time is required than was granted by the original notice, the building official may grant an extension if:

    (i) The building official deems that such extension is warranted because of the circumstances in the case, and

    (ii) The building official determines that such extension will not cause imminent peril to life, health, or property.

4. *Reply requesting technical determination.*

    (i) If a reply is received within the specified time limit requesting further review and technical analysis even though the alleged violations continue, then the building official may call in properly qualified experts to complete such analysis and confirm or refute the initial determination of violation.

    (ii) If expert findings indicate that violations of the performance standards do exist in fact, the costs incurred in making such a determination shall be paid by the persons responsible for the violations, in addition to such other penalties as may be appropriate under the terms of this chapter. Such costs shall be billed to those owners or operators of the subject use who are deemed responsible for the violation. If the bill is not paid within thirty (30) days, the city shall take whatever appropriate action is necessary to recover such costs, or alternately, the cost shall be charged against the property where the violation occurred. If no substantial violation is found, cost of determination shall be paid by the city.

d. *Continued violation.* If, after the conclusion of the time period granted for compliance, the building official finds that the violation still exists, any permits previously issued shall be void and the city shall initiate appropriate legal action, including possibly pursuit of remedies in circuit court.

e. *Appeals.* Action taken by the building official pursuant to the procedures outlined in this section may be appealed to the zoning board of appeals within thirty (30) days following said action. In the absence of such appeal, the building official's determination shall be final.

(Ord. No. H-07-01, § 8.601, 7-24-07)

Sec. 36-342. Industrial activity statement.

(a) *Purpose.* In order to plan for and accommodate new industries in Dearborn Heights, an industrial activity statement shall be provided in conjunction with site plan review for all proposed industrial operations. An industrial activity statement is also required for a new industry prior to re-occupying an existing building, even if a formal site plan review is not required. Responses shall be submitted on company letterhead, signed and dated by the chief executive of the proposed Dearborn Heights facility.

(b) *Contents.* An industrial activity statement shall include the following information:

(1) Business name.

(2) Business mailing address.

(3) Business phone number, fax number, and emergency phone number.

(4) If a subsidiary, the name and address of the parent company.

(5) The names and titles of individuals involved in management of the business in Dearborn Heights.

(6) A detailed description of the business to be located in Dearborn Heights, including, at minimum, the following information (this information, including the levels of emissions and discharges specified, will become a part of the approved site plan, and may be used by the city to monitor compliance with the approved site plan):

a. The types of industrial processes to be used.

b. The products to be created.

c. Identification of chemicals, hazardous substances, flammable or combustible liquids, pesticides, fertilizers, and oil products to be used, stored, or produced.

d. Description of the type and maximum level of any air contaminants or air emissions to be produced by the industrial processes, and description of the measures to be taken to protect air quality.

e. Description of the type and maximum amount of wastewater to be produced, and description of the measures to be taken to prevent discharge of pollutants into or onto the ground.

f. Description of the type and level of noise to be created by the industrial processes, and description of any noise abatement measures to be taken.

(7) If the business is relocating from another municipality, the addresses of previous location(s).

(8) The expected daily hours of operation.

(9) The days of the week when expected to be in operation.

(10) Number of employees expected at the Dearborn Heights facility.

(11) Indication whether the business has been cited within the past five (5) years, in any form or manner, by any governmental authority for violation of any laws and regulations, including environmental laws and regulations, and indication whether the business had any permits revoked because of noncompliance with governmental regulations, with detailed explanation.

(12) Indication whether, in the past five (5) years, any employees sustained on-the-job disabling injuries or injuries necessitating recovery lasting more than two (2) weeks, or whether any employees have been killed on the job, with detailed explanation.

(13) Indication whether there are any special fire protection devices or measures required by this business, with detailed explanation.

(14) Indication whether there are any special waste treatment procedures or measures required by this business, with detailed explanation.

(c) *Statement of accuracy and authority.* In the letter containing the above information, the following statement shall be inserted prior to the signature by the chief executive officer of the Dearborn Heights facility:

"I hereby swear or affirm that I have sufficient knowledge concerning the proposed business to provide the information provided herein and that this information is true and accurate. I further swear or affirm that I have the authority to sign this document on behalf of the applicant."

"I acknowledge that the information contained in this document is required under the Dearborn Heights Zoning Ordinance and shall become a part of our site plan review application. I acknowledge that any omission or material misrepresentation as to the information contained herein shall be cause for denial of the application, and if the omission or material misrepresentation is discovered subsequent to site plan approval, for revocation of that site plan approval. I acknowledge that any operations of the business that are inconsistent with or in conflict with the information presented herein shall constitute a violation of the Zoning Ordinance and shall be subject to the penalties and corrective action specified in the Zoning Ordinance."

(Ord. No. H-07-01, § 8.602, 7-24-07)

Secs. 36-343—36-360. Reserved.

ARTICLE IX. PARKING, LOADING, AND ACCESS MANAGEMENT

Sec. 36-361. Purpose.

The purpose of this article is to protect water quality and the capacity of drainage and stormwater management systems; to limit the number of off-street parking spaces and amount of impervious surfaces that may be permitted on a parcel of land or accessory to a use or building; to establish flexible minimum and maximum standards for off-street parking and loading; and to promote the use and development of shared parking facilities and cross-access between sites.

(Ord. No. H-07-01, § 9.01, 7-24-07)

Sec. 36-362. Scope.

The regulations of this article shall be met in all districts whenever any uses are established; any structure is erected, enlarged, or increased in capacity; a new land use is established; an existing use is replaced by a new use (change of use); or an existing use is expanded or increased in intensity. Such spaces shall be provided in accordance with the provisions of this article, subject to approval per article XIV, division 2, Site plan review.

(Ord. No. H-07-01, § 9.02, 7-24-07)

Sec. 36-363. General standards.

(a) *Location of spaces.* Off-street parking shall be provided on the same lot of the building it is intended to serve, except as otherwise provided for by this article. Off-street parking spaces shall be located within five

hundred (500) feet of a primary building entrance for the use to which such spaces are accessory. Off-street parking facilities may be located within required yard setbacks, subject to provision of adequate screening per subsection 36-392(f), Parking lot landscaping.

(b) *Alteration of existing off-street parking facilities.* Existing off-street parking facilities accessory to an existing building or use shall not be reduced to an amount less than the minimum required by this article for a similar new building or new use. The minimum required off-street parking spaces shall not be replaced by any other use unless adequate parking facilities meeting the standards of this article conforming have first been provided at another location acceptable to the planning commission.

(c) *Use.* Off-street parking, stacking, and loading facilities shall be further subject to the following:

(1) No commercial activity or selling of any kind shall be conducted within required parking areas, except as part of a permitted temporary use.

(2) The storage of merchandise, motor vehicles for sale, semi-trucks or trailers, or the repair of vehicles shall be prohibited in off-street parking areas.

(3) No person shall park any motor vehicle on any private property without the authorization of the owner, holder, occupant, lessee, agent or trustee of such property. Ownership shall be shown of all lots intended for use as parking by the applicant.

(d) *Shared facilities.* The development and use of a parking or loading facility shared between two (2) or more contiguous uses shall be permitted where peak activity for each use will occur at different periods of the day or week.

(1) *Signed agreement.* Shared facilities shall be subject to acceptance by the planning commission of a signed shared facility agreement between the property owners.

(2) *Minimum and maximum number of spaces.* Where shared parking facilities are provided, the number of parking spaces shall not be less than eighty (80) percent nor more than one hundred twenty (120) percent of the sum of the minimum requirements for the various individual uses specified in section 36-395, Schedule of required parking by use.

(Ord. No. H-07-01, § 9.03, 7-24-07)

Sec. 36-364. Residential parking standards.

(a) Required off-street parking for single-family and two-family dwellings shall consist of a parking strip, parking bay, driveway, garage, or combination thereof located on the premises they are intended to serve. All residential parking shall be subject to the following standards:

(1) *Motor vehicles.* No motor vehicle shall be kept, parked or stored in any district zoned for residential use, unless the vehicle is in operating condition and properly licensed or is kept inside a building.

a. This section shall not apply to any motor vehicle ordinarily used but temporarily out of running condition.

b. If a motor vehicle is being kept for actual use, but is temporarily unlicensed, the building official may grant the owner a period of up to ninety (90) calendar days to secure a license.

c. *Recreational vehicles.* The open parking or storage of recreational vehicles, boats, or similar vehicles or equipment shall be in accordance with section 32-806 of the Code of Ordinances, as amended.

(Ord. No. H-07-01, § 9.04, 7-24-07)

Sec. 36-365. Schedule of required parking by use.

(a) *Parking calculations.* Where a use is not specifically mentioned in this article, the planning commission shall apply the standards for a similar listed use. Where calculations determining the number of required parking spaces result in a fractional space, any fraction up to and including one-half (½) shall be disregarded, and any fraction over one-half (½) shall be rounded-up to the next highest whole number.

(1) *Employee parking.* Where parking is calculated on a per-employee basis, the total number of employees on the largest shift shall be used to determine the required number of spaces.

(b) *Minimum and maximum parking requirements.*

(1) *Minimum required spaces.* Off-street parking, stacking, and loading spaces shall be provided in accordance with the minimum requirements of subsection (c), Schedule of required parking by use. The planning commission may require any use to provide parking spaces above the required minimum, up to the maximum permitted by this section.

(2) *Maximum permitted parking spaces.* The maximum amount of off-street parking permitted for any use shall not exceed one hundred twenty (120) percent of the minimum parking requirements of this section, unless otherwise provided in subsection (c), Schedule of required parking by use. This requirement shall not apply to single-family or two-family dwellings, or to spaces reserved for off-site uses per subsection 36-369(b), Off-site parking facilities.

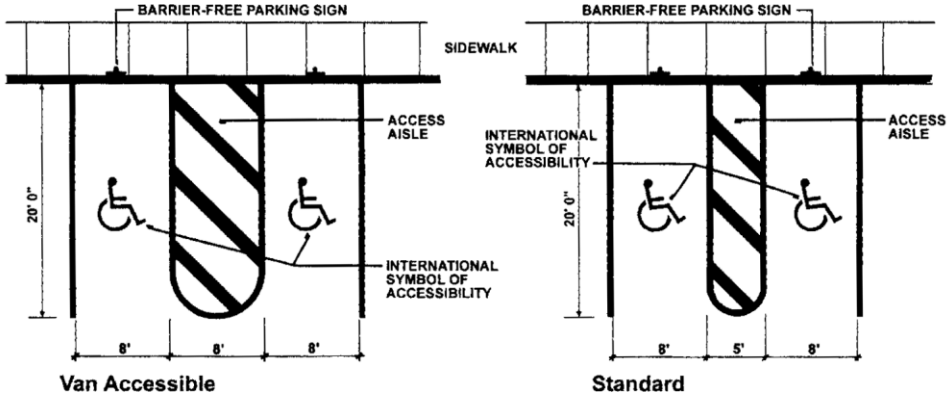
(c) *Schedule of required parking by use.*

RESIDENTIAL USES	Minimum Spaces Required	Notes
Accessory dwelling	1 per unit	in addition to spaces for principal use
Bed-and-breakfast inns	1 per guest bedroom	in addition to spaces for principal use
Home occupations	Zero	in addition to spaces for principal use
Hotels or motels	1 per occupancy unit, plus 1 per employee	
Mobile home parks	2 per unit, plus 1 per employee	plus 0.5 per unit for guest parking
Multiple-family dwellings	1.5 per 1-2 bedroom unit; 2 per 3+ bedroom unit	plus 20% of total for guest parking
Nursing homes	0.75 per unit, plus 1 per employee	
Senior citizen housing, independent	1 per unit	plus 0.33 per unit for guest parking
Senior citizen housing, assisted	0.5 per unit, plus 1 per employee	plus 0.33 per unit for guest parking
Single-family detached dwellings	2 per unit	Required parking may be in garage.
State-licensed residential facilities	1 per bedroom, plus 1 per employee	
Two-family dwellings	2 per unit	Required parking may be in garage.
OFFICE AND COMMERCIAL USES	Minimum Spaces Required	Notes
ufa = square feet of usable floor area gfa = square feet of gross floor area sf = square feet		
Amusement arcades	1 per 50 ufa, plus 1 per employee	
Automobile dealerships	1 per 400 ufa, plus 1 per employee	plus required parking for repair garage, if applicable

Banks and financial institutions	1 per 250 ufa, plus 2 per ATM	plus drive-through requirements, if applicable
Beauty salons; barbershops	3 per chair for first two chairs;1.5 per chair each additional	
Bowling alleys	4 per lane	plus accessory uses (bar, arcade, etc.)
Catering or banquet halls	1 per 2 persons based on max. occupancy, plus 1 per employee	
Child care center	1 per 350 ufa, plus 1 per employee	
Commercial tree and shrub nurseries or greenhouses	1 per 300 ufa offices or sales rooms, plus 1 per employee	
Convenience store	1 per 150 ufa	
Dry cleaning plant	1 per 500 sf gross floor area, plus 1 per employee	
Dry cleaning shop, no plant on premises	1 per 500 ufa	
Funeral homes or mortuaries	1 per 50 ufa	
Laundromat	1 per 3 washing or drying machines	
Medical and dental offices; veterinary clinics	1 per exam/treatment room,plus 1 per employee, plus 1 per 100 ufa waiting area	
Miniature golf courses	2 per hole, plus 1 per employee	
Open-air or outdoor sales	1 per 500 square feet of outdoor display area	
Private clubs; fraternal organizations	0.33 per person based on max. occupancy, plus 1 per employee	
Professional offices	1 per 250 ufa	
Restaurants, bar or lounge	1 per 50 ufa	
Restaurants, carry-out or fast-food	1 per 100 ufa, plus 1 per employee	plus drive-through requirements, if applicable
Restaurants, delivery	1 per employee	
Restaurants, standard	1 per 2 seats, plus 1 per employee	Parking for outdoor seating shall be provided at a rate of 1 per 2 seats.
Retail stores not otherwise specified	1 per 200 ufa	
Specialty construction trades	1 per 500 ufa	
Video rental stores	1 per 100 ufa	
AUTOMOBILE-ORIENTED USES	Minimum Spaces Required	Notes
ufa = square feet of usable floor area; gfa = square feet of gross floor area; sf = square feet		
Automobile detailing shop	3 per service bay, plus 1 per employee, plus 1 per 200 ufa of customer service area	
Automotive repair garage, major or minor repair	2 per service bay, plus 1 per employee, plus 1 per 200 ufa of customer service area	

Car wash, automatic	2, plus 1 per employee	plus, for each lane, 20 stacking spaces and 2 exit spaces
Car wash, self-service	2, plus 1 per employee	plus, for each lane, 3 stacking spaces and 1 exit space
Drive-in business	1 per service stall, plus 1 per employee	
Drive-through business, food-service	2 per service window, plus 10 stacking spaces per lane	
Drive-through business, other	5 stacking spaces per lane	
Gas station	1 per fueling station, plus 1 per employee, plus 0.5 stacking space per fueling station	A double-sided gas pump is counted as two fueling stations.
Gas station with convenience store or carry-out or fast-food restaurant	1 per fueling station, plus 1 per employee, plus 1 stacking space per fueling station	plus requirements for convenience store or carry-out or fast-food restaurant
Service station	1 per fueling station, plus 1 per employee, plus 2 per service bay, plus 1 per 200 ufa of customer service area	
INDUSTRIAL USES	Minimum Spaces Required	Notes
ufa = square feet of usable floor area; gfa = square feet of gross floor area; sf = square feet		
General industrial and manufacturing	1 per 600 gfa	
Building services (pest control, janitorial, carpet cleaning)	1 per 500 gfa, plus 1 per employee, plus 1 per service vehicle	
Heavy truck repair garage	1 per employee, plus 3 truck spaces per service bay	Truck spaces should be 10 feet wide by 50 feet long.
Junkyard; scrap yard	1 per 500 sf of yard area	
Motor vehicle rental and leasing; automobile livery	1 per 200 ufa, plus 1 per employee, plus 1 per vehicle for rent	
Motor vehicle towing	1 per 500 sf of yard area, plus 1 per employee	
Other automotive maintenance & repair (incl. rustproofing & undercoating)	5, plus 2 per service bay, plus 1 per employee	
Outdoor storage of materials, equipment, or vehicles	1 per 500 sf of yard area	
Self-storage facilities	5, plus 1 per 300 ufa in office	
INSTITUTIONAL & RECREATION USES	Minimum Spaces Required	Notes
ufa = square feet of usable floor area; gfa = square feet of gross floor area; sf = square feet		
Churches and other places of worship	1 per 3 seats or 6 feet of bench-type seating	plus 10% of total reserved as a land bank for future expansion

Elementary or middle schools	2 per classroom	or requirement for assembly hall, whichever is greater
High schools	0.1 per student, plus 1 per employee	or requirement for assembly hall, whichever is greater
Specialty schools; adult education facilities	1 per 200 ufa, plus 1 per employee	
Theaters or assembly halls	1 per 3 seats or 6 feet of bench-type seating	
Hospitals	1 per bed, plus 1 per 150 ufa of outpatient treatment areas	
Indoor recreation establishments; athletic or community centers	1 per 2 persons based on max. occupancy, plus 1 per employee	
Outdoor recreation establishments	1 per 7,500 square feet of gross land area	
Private parks and golf courses	1 per 500 ufa of clubhouse, plus 1 per employee, plus 4 per hole	
Museums; libraries	1 per 150 ufa	
Post offices	1 per 100 ufa, plus 1 per employee	
Public utility buildings	1 per employee	
Public buildings and uses not otherwise specified	1 per 200 ufa, plus 1 per employee	



Barrier-Free Parking Space Layout

OTHER USES	Minimum Spaces Required	Notes
ufa = square feet of usable floor area; gfa = square feet of gross floor area; sf = square feet		
Adult regulated uses	1 per 200 ufa, plus 1 per employee	
Kennels	1 per 200 ufa, plus 1 per employee	

Radio or television studios	1 per employee	
Recreational vehicle storage yard	1 per 500 sf of yard area	

(Ord. No. H-07-01, § 9.05, 7-24-07)

Sec. 36-366. Design requirements.

(a) *Scope.* Off-street parking facilities, other than parking for single-family and two-family dwellings subject to section 36-364, Residential parking standards, shall be designed, constructed, and maintained in accordance with the provisions of this section.

(b) *Barrier-free parking requirements.* Barrier-free parking spaces shall be provided per federal ADA requirements from the U.S. Department of Justice's ADA Business Brief: Restriping Parking Lots. These requirements are summarized in the following table.

Total Parking Spaces Provided	Minimum Number of Barrier-Free Spaces Required
Up to 25	1 van-accessible space
26 to 50	1 standard BF space, plus 1 van-accessible space
51 to 75	2 standard BF spaces, plus 1 van-accessible space
76 to 100	3 standard BF spaces, plus 1 van-accessible space
101 to 150	4 standard BF spaces, plus 1 van-accessible space
151 to 200	5 standard BF spaces, plus 1 van-accessible space
201 to 300	6 standard BF spaces, plus 1 van-accessible space
301 to 400	7 standard BF spaces, plus 1 van-accessible space
401 to 500	7 standard BF spaces, plus 2 van-accessible space
501 to 1,000	2% of total spaces (1/8 must be van accessible)

(1) *Location.* Barrier-free spaces shall be accessible from and conveniently located near each primary building entrance.

(2) *Identification.* Barrier-free spaces shall be identified by above-grade signs and pavement striping.

(3) *Dimensions.* Barrier-free spaces shall be eight (8) feet in width, with an adjacent access aisle of five (5) feet in width (eight (8) feet for van-accessible spaces). Such access aisle shall be striped to prevent its use as a parking space. An access aisle may be shared between two (2) adjacent barrier-free parking spaces.

(c) *Setbacks and screening.* Screening and landscaping shall be provided for all parking and loading facilities in accordance with the provisions of subsection 36-392(f), Parking lot landscaping. Off-street parking spaces and all driveways shall be set back a minimum of ten (10) feet from all street rights-of-way and abutting residential uses.

(d) *Exterior lighting.* Parking lot lighting shall comply with the standards of article XII, Exterior Lighting.

(e) *Ingress/egress.* Adequate means of ingress and egress shall be provided for all parking and loading facilities by means of clearly limited and defined drives, curb cuts, and maneuvering lanes. Backing directly onto a street or using a street for maneuvering between parking rows shall be prohibited.

(1) Parking lot driveway dimensions. Each driveway shall be a minimum of eleven (11) feet and a maximum of fifteen (15) feet in width per direction. Lanes for entering and exiting traffic shall be

clearly marked on the pavement. The driveway shall include an on-site stacking area. The driveway shall intersect the abutting street at a ninety-degree angle.

(2) Ingress and egress to an off-street parking serving a multiple-family or nonresidential use shall not cross land in an R1 district.

(3) Ingress and egress to any off-street parking lot serving a multiple-family or nonresidential use shall be set back a minimum of twenty-five (25) feet from any R1 district or a lot occupied by an existing dwelling.

(f) *Pavement and striping.* Off-street parking facilities shall be paved with concrete, plant-mixed bituminous asphalt, or similar materials. All parking spaces in paved lots shall be marked with pavement striping.

(g) *Stacking spaces.* Where required by this article, stacking spaces for drive-through facilities shall be ten (10) feet wide by twenty (20) feet long. Stacking spaces shall not intrude into any street right-of-way or maneuvering lane for an off-street parking lot.

(h) *Grading and drainage.* Driveways and parking areas shall be graded and provided with adequate drainage to dispose of surface waters in accordance with applicable construction and design standards established by the city and applicable Wayne County departments. Surface water shall not drain onto adjoining lots, towards buildings, or across a public street, except in accordance with an approved drainage plan.

(i) *Parking layout.* The layout of off-street parking facilities shall be in accordance with the following minimum requirements and the graphic on the following page:

Parking Pattern	Maneuvering Lane Width	Space Dimensions		Total Width (Maneuvering Lane plus Two Parking Rows)
		Width	Length	
0° (parallel)	24 feet (two-way)	8 feet	22 feet	40 feet
45°	12 feet (one-way)	9 feet	20 feet	49 feet
60°	16 feet (one-way)	9 feet	20 feet	56 feet
90°	20 feet (two-way)	9 feet	20 feet	60 feet

(1) Drive aisles in off-street parking lots shall not exceed two hundred (200) feet without a break in circulation.

(2) All parking lots shall be provided with wheel stops or bumper guards so located that no part of parked vehicles will extend beyond the lot boundaries, into required screening or landscaping, or across sidewalks or pedestrian pathways.

(3) No parking lot shall have more than one (1) attendant shelter building. All shelter buildings shall conform to the height and setback requirements for structures in the district where the parking lot is located.

(Ord. No. H-07-01, § 9.06, 7-24-07)

Sec. 36-367. Construction.

(a) *Site plan required.* Construction or alteration of off-street parking lots shall be in accordance with an approved site plan. Plans for parking lots shall indicate existing and proposed grades, drainage, surfacing and base materials, and the proposed parking layout.

(b) *Permits required.* Proof of any necessary permits or approvals from Wayne County or any other agency with jurisdiction shall be provided to the city.

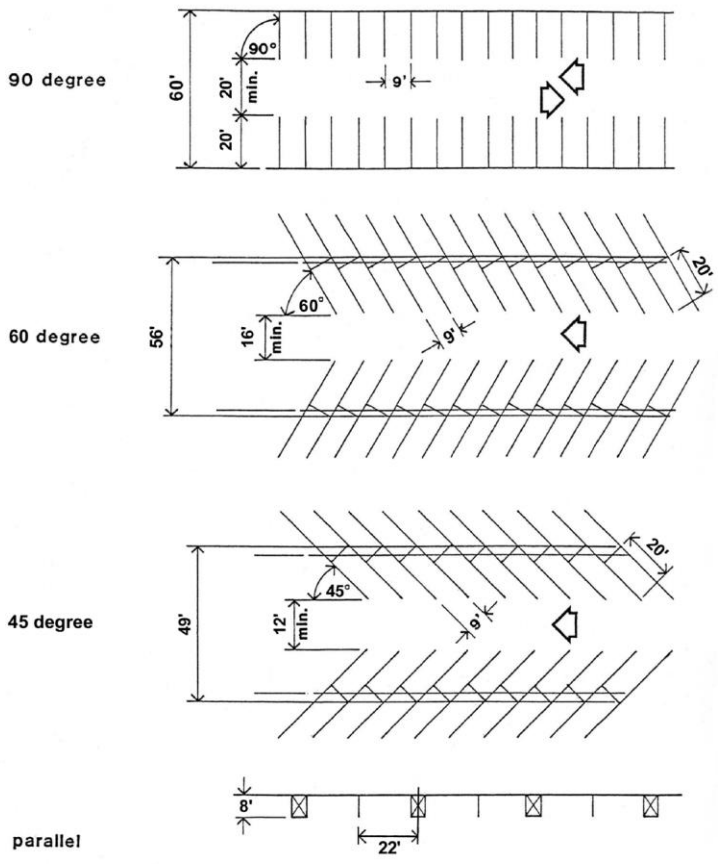
(c) *Performance guarantee.* In the event that required paving cannot be completed because of cold or inclement weather, the city may require submittal of a performance guarantee to ensure completion per section 36-7, Fees and performance guarantees.

(Ord. No. H-07-01, § 9.07, 7-24-07)

Sec. 36-368. Accessory off-street parking in residential districts.

(a) Accessory off-street parking areas may be permitted in all residential districts following site plan approval in accordance with article XIV, division 2, Site plan review. However, accessory off-street parking areas may be approved only when it is reasonably indicated that business property in adjoining or adjacent areas is unavailable or impractical for the development of an off-street parking facility.

(b) A notice of a request for site plan approval of an off-street parking area, prepared in accordance with subsection 36-481(1)a., shall be mailed to owners and occupants of all properties and structures within three hundred (300) feet of the subject site, including those outside of the city (in adjacent cities, villages or [city's]), if applicable. Notices must be postmarked not less than fifteen (15) days prior to the date of the hearing.



Parking Layout

(c) Accessory off-street parking areas shall be considered a conditional accessory use to adjoining business property, and as such the same shall be used for customer vehicle parking of such adjoining business only. Further, penetration of residence property for the establishment of accessory off-street parking areas shall not exceed one hundred thirty (130) feet measured at right angles from the residential property line adjoining the business or industrial district, except as may be provided in an officially adopted master plan or project, and shall be subject to the following requirements:

(1) No repairs or service to vehicles and no display of vehicles for purposes of sale shall be carried on or permitted upon such premises.

(2) No advertising signs shall be erected on the premises.

(3) All land between the boundaries of the parking facility and the barriers referred to in subsection (c)(8) hereof, as well as the surface of the parking area, shall be kept free from tall grass, weeds, rubbish, refuse and debris and shall be landscaped to conform with the requirements of this zoning code.

(4) The parking surface, and all required access drives and maneuvering aisles, shall be covered with a pavement of concrete or plant-mixed bituminous material and shall be graded and drained to the storm sewer so as to dispose of surface water which might accumulate within or upon such area. No surface water from such parking area shall be permitted to drain onto adjoining property.

(5) Accessory off-street parking areas shall be curbed with concrete curbs and gutters. Necessary curbs or other protection for the public and for the protection of adjoining properties, streets and sidewalks shall be provided and maintained.

(6) All parking lot lighting shall be designed, located, and shielded to prevent glare onto adjacent properties, in accordance with article XII, Exterior Lighting, and shall be arranged to prevent adverse affects on motorist visibility on adjacent rights-of-way. The source of illumination shall not be more than fifteen (15) feet above the average grade level of the parking area.

(7) Side yards shall be maintained for a space of not less than ten (10) feet between the side lot lines of adjoining lots and the parking area. The depth of the front yard or setback line shall be five (5) feet from the sidewalk. No person shall use the space between such setback line and the sidewalk for the parking of motor vehicles. However, the barrier described in paragraph (c)(8) hereof, shall be located on the setback line as required in this paragraph.

(8) Whenever such parking area adjoins residential property and/or a residential street or alley, a solid masonry wall or fence constructed of other acceptable materials and not less than four (4) feet or more than six (6), shall be erected and maintained between the required yard space and the area to be used for parking. Such walls shall be constructed of the same materials as that of the main or principal buildings, and be faced with either brick, decorative block, or pre-cast concrete formed into a decorative pattern and painted in the same color scheme as that of the principal building. The planning commission may allow a greenbelt used for screening as defined in subsection 36-392(e), Screening. Bumper guards of a type described in subsection 36-366(i)(2), Parking lot layout shall be provided to prevent vehicles from striking such wall or shrubbery. All required walls, fences or other barriers shall be properly maintained and kept free of debris, signs or advertising.

(9) Entrance to such area shall be only from an adjoining principal use or an adjoining alley. Parking lots shall be designed to prevent vehicles from backing into the street, backing into an access drive, or requiring the use of the street for maneuvering between parking rows.

(10) Plans for the development of any parking facility must be submitted to the building department in accordance with article XIV, division 2, Site plan review.

(11) No person shall leave, park or store, or permit to be left, parked or stored, any motor vehicle in an accessory off-street parking area for a period longer than eighteen (18) hours. It is the purpose and intent of this paragraph that the requirement is to provide for keeping parked motor vehicles off the streets, but such requirement is not designed to permit the storage of unregistered or unlicenced, wrecked or junked cars or vehicles. No person shall park or permit to be parked any motor vehicle in such parking area between 12:00 midnight and 6:00 a.m., unless the adjacent business maintaining such parking area remains open after 12:00 midnight, in which case the lot shall be closed and all parked cars removed within thirty (30) minutes after the business has closed.

(12) No charge for parking shall be made in an accessory off-street parking area.

(13) The use of any loud noise producing device or public address system shall be prohibited.

(14) No advertising signs shall be erected on the premises, but directional signage may be permitted at each of the points of ingress or egress, and such sign may bear the name of the operator of the lot and the enterprise it is intended to serve. Such sign shall not exceed fifteen (15) square feet in area and an overall height of ten (10) feet.

(Ord. No. H-07-01, § 9.08, 7-24-07; Ord. No. H-13-04, § 1D, 10-8-13)

Sec. 36-369. Off-street loading.

(a) *Applicability.* On the same premises with every structure, use or part thereof involving the receipt or distribution of vehicles, equipment, materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading, and unloading to avoid undue interference with public use of dedicated rights-of-way. Such space shall be provided according to the provisions of this section.

(b) *General standards.* The following shall apply to loading and unloading areas in all zoning districts:

(1) *Setbacks.* Loading spaces shall be set back a minimum of fifty (50) feet from any residential district or use, except where enclosed within a building or screened to the satisfaction of the planning commission, per subsection 36-392(e), Screening.

(2) *Hard surface required.* The planning commission may require that loading spaces be paved with a surface providing the equivalent load strength of up to nine (9) inches of concrete.

(3) *Dimensions of loading spaces.* Each loading space shall be at least ten (10) feet wide and twenty-five (25) feet long. If roofed, a loading space must have at least fifteen (15) feet of vertical clearance. Where a use involves semi-trucks making deliveries on a daily basis, or requires that semi-trailers will be parked in the space for more than one hour at any time, the loading space shall be at least sixty (60) feet long.

(4) *Location of loading spaces.* The location and arrangement of loading spaces shall be subject to the following:

a. Off-street loading space may be completely enclosed within a building, or may occupy a portion of the site outside of the building. Where any portion of a loading space is open to public view, screening shall be provided in accordance with subsection 36-392(e), Screening.

b. All loading and unloading in an industrial district shall be provided off-street in the rear yard or interior side yard. Loading and unloading facilities shall be prohibited in the front yard.

c. Off-street loading facilities that make it necessary or possible to back directly into a public street shall be prohibited. All maneuvering of trucks and other vehicles shall take place on the site and not within a public right-of-way.

(c) *Number of loading spaces required.* The minimum size or number of required loading spaces shall be based on the gross floor area of a building or addition. Commercial, industrial, research, and laboratory uses shall be required to provide a minimum number of loading spaces as follows:

Gross Floor Area	Loading Spaces	Gross Floor Area	Loading Spaces
Less than 1,400 sq. ft.	0	20,000—49,999 sq. ft.	2
1,400—19,999 sq. ft.	1	50,000+ sq. ft.	3, plus 1 for each additional 50,000 sq. ft. or fraction thereof

(Ord. No. H-07-01, § 9.08, 7-24-07)

Sec. 36-370. Modification of standards.

Limited modifications to the standards of this article shall be permitted, subject to the following:

(1) *Special parking districts.* The purpose of a special parking district is to define one or more areas of the city within which a reduction of off-street parking requirements for individual uses shall be permitted due to the availability of public parking lots owned or operated by the city, on-street parking, and similar public parking facilities.

a. Special parking districts may be established by the city council, upon a recommendation from the planning commission.

b. The boundaries of areas classified as special parking districts shall be delineated on an official map maintained by the city.

c. Individual uses within the boundaries of a special parking district shall not be required to construct or maintain private off-street parking facilities, provided that the use is located within seven hundred fifty (750) feet of an existing or planned off-street public parking lot.

d. Special parking districts may be associated with a special assessment district or other financing device intended to provide for the establishment or improvement of public parking facilities.

(2) *Off-site parking facilities.* Required parking facilities accessory to nonresidential uses in any zoning district may be located off-site (on other than the same zoning lot as the use served), subject to the following:

a. Required parking shall be located within five hundred (500) feet of the primary building entrance.

b. A written agreement shall be drawn to the satisfaction of the city attorney and executed by all parties concerned assuring the continued availability of the off-site parking facilities for the use they are intended to serve.

(3) *Exceeding maximum number of required spaces.* The planning commission may require any use to provide parking spaces above the required minimum, up to the maximum permitted by this section. Exceeding the maximum parking space requirements shall be prohibited, except where the planning commission determines that additional parking is necessary to accommodate the use on a typical day of operation, based upon evidence supplied by the applicant.

(4) *Deferment of parking spaces.* Where an applicant demonstrates to the satisfaction of the planning commission that the minimum required number of parking spaces is excessive, the planning commission may approve the construction of a lesser number of parking spaces, provided that the deferred parking is shown on the site plan and set aside as open space.

a. *Timing for construction of deferred parking.* Deferred parking spaces shall be constructed in accordance with the approved site plan upon written request by the city after the zoning administrator or code enforcement officer has documented three (3) incidents of problem parking on the site.

(5) *Modification of loading space requirements.* The planning commission may modify or waive the requirement for off-street loading areas, upon determining that adequate loading space is available to serve the building or use, or that provision of such loading space is unnecessary or impractical to provide.

(6) *Other circumstances.* The planning commission may modify or waive an off-street parking standard under this article under any of the following circumstances:

a. A determination that existing off-street parking spaces on or adjacent to the lot can effectively accommodate the parking needs of the proposed use without negatively impacting traffic safety or adjacent uses.

b. Sufficient evidence has been provided by the applicant to demonstrate that an alternative parking standard would be more appropriate for the type, scale, or intensity of the proposed use.

(Ord. No. H-07-01, § 9.10, 7-24-07)

Sec. 36-371. Maintenance.

All parking and loading areas shall be maintained in accordance with the provisions of this article, an approved site plan, and the following:

(1) Alterations to an approved parking or loading facility that are not in accordance with an approved site plan shall be considered a violation of this chapter.

(2) All parking areas, perimeter landscaped areas, and required screening shall be kept free from tall grass, weeds, trash, and debris. Surfacing, curbing, lighting fixtures, signage, and related improvements shall be kept in good repair.

(Ord. No. H-07-01, § 9.11, 7-24-07)

Sec. 36-372. Access management.

The purpose of this section is to protect the substantial public investment in the city's street system by preserving the traffic capacity of existing streets. It is the further intent of this section to promote safe and efficient travel within the city; minimize disruptive and potentially hazardous traffic conflicts; establish efficient standards for driveway spacing and the number of driveways; and ensure reasonable vehicular access to properties, though not always the most direct access.

(1) *Zoning districts.* The standards of this section shall apply to land in the city's nonresidential zoning districts only.

(2) *County or state access management standards.* Where Wayne County or the Michigan Department of Transportation (MDOT) have adopted access management standards which are more restrictive than the standards of this section, the adopted county or MDOT standards shall supersede the standards of this section.

(3) *Driveway spacing standards.* Each parcel or part thereof subject to the standards of this section shall have no more than one (1) driveway entrance and exit opening to a public street for each seventy-five (75) feet of frontage or fraction thereof.

a. Where more than one (1) driveway is allowed, the driveways shall be located at least thirty (30) feet apart.

b. No driveway shall be located within twenty-five (25) feet of a side lot boundary, or within twenty-five (25) feet of an intersection of two (2) or more street rights-of-way.

(4) *Shared access standards.* Vehicle access to parcels or parts thereof subject to the standards of this section may be provided by the development and use of shared driveways, cross-access drives, service drives, and similar means of shared access, subject to the following:

a. *Location.* New shared driveways, cross-access drives, and service drives shall be aligned with existing drives on adjacent lots where feasible, and shall be located parallel or perpendicular to the street right-of-way, as appropriate.

b. *Cross-access easement.* Shared driveways, cross-access drives, and service drives shall be located within a dedicated access easement that permits traffic circulation between lots. Such access easement shall be recorded with the county register of deeds.

c. *Maintenance.* The easement area shall remain clear of obstructions and shall not be used for parking unless otherwise approved by the planning commission. Each property owner shall be responsible for maintenance of the shared access easement area.

(Ord. No. H-07-01, § 9.12, 7-24-07)

Sec. 36-373. Traffic impact studies.

(a) *Applicability.* Where authorized by this chapter or determined necessary by the planning commission, a traffic impact study (TIS) shall be prepared by an applicant to determine the potential future traffic conditions on the adjacent roadways once a proposed use is established or development is completed. The city may utilize its own traffic consultant to review the TIS, with the cost of the review being borne by the applicant per section 36-7, Fees and performance guarantees.

(b) The results of the TIS shall be used in the final design of access points and internal circulation and may identify necessary off-site street improvements. At a minimum, the TIS shall meet standards of the Michigan Department of Transportation (MDOT) handbook entitled Evaluating Traffic Impact Studies. The planning commission may modify the TIS requirements or scope based upon site and use location and conditions.

(c) *Required contents.* Information required in a TIS shall be provided in accordance with subsection 39-495(11)c.

(Ord. No. H-07-01, § 9.13, 7-24-07)

Secs. 36-374—36-390. Reserved.

ARTICLE X. LANDSCAPING AND SCREENING

Sec. 36-391. Intent and scope of requirements.

(a) *Purpose and intent.* Landscaping and screening enhance the visual environment of the city; preserve natural features; protect property values; alleviate the impacts of noise, traffic, and more intensive land uses; and minimize visual impacts of parking lots, loading areas, and storage areas. Landscaping and screening also contribute to a healthy development pattern, and increase the level of privacy for residential uses in the city.

The purposes of this article are to establish reasonable standards for the design, installation, and maintenance of screening elements and plant materials; the screening of uses of a significantly different scale or character; and the buffering of parking lots, storage areas and similar activities from street rights-of-way and adjacent lots.

More specifically, the intent of the provisions of this article is to:

(1) Improve the appearance of off-street parking areas, vehicular use areas, and property abutting public rights-of-way;

(2) Protect and preserve the appearance, character, and value of the neighborhoods which abut nonresidential areas, parking areas, and other intensive use areas, thereby protecting the public health, safety and welfare;

(3) Increase soil water retention, thereby helping to prevent flooding; and

(4) Immediately achieve the purposes of this article through the size, spacing, and selection of required plant materials and effectively maintain those purposes as the plant materials mature.

(b) *Scope.* No site plan shall be approved unless it shows landscaping consistent with the requirements of this article. A building permit shall not be issued until the required landscape plan is submitted and approved, and a certificate of occupancy shall not be issued unless provisions set forth in this section have been met or a performance guarantee has been posted in accordance with the provisions set forth in section 36-7, Fees and performance guarantees.

(c) *Landscape inspection.* As a condition of issuance for a certificate of occupancy, the planning consultant shall conduct an inspection to ensure that the installed landscaping conforms to the approved landscape plan. Costs associated with such inspection shall be borne by the applicant.

(d) *Minimum requirements.* The requirements in this article are minimum requirements, and under no circumstances shall they preclude the developer and the city from agreeing to more extensive landscaping.

(e) *Design creativity.* Creativity in landscape design is encouraged. Accordingly, required trees and shrubs may be planted at uniform intervals, at random, or in groupings, depending on the designer's desired visual effect and, of equal importance, the intent of the city to coordinate landscaping on adjoining properties.

(f) *Special provisions for existing sites.* Where existing sites have been developed without adequate screening or buffering, the purposes of this article shall be achieved through improvements that are in reasonable proportion to the scale and construction cost of proposed building improvements, expansions, or other site improvements. The objective of these provisions is to gradually bring a site into full compliance with the requirements for new construction under this article.

(1) *Building expansion.* For structures that require site plan review, a minimum of forty (40) percent of the difference between the existing and minimum required landscaping for the overall site shall be provided. For building expansions of greater than ten percent of gross floor area, there shall be provided at least four (4) percent of the difference in landscaping for each one percent expansion in the gross floor area above ten percent.

(2) *Change in use or occupancy.* In cases where there is a change in use or occupancy with no building expansion or other site improvements, there shall be provided at least forty (40) percent of the difference between the existing and minimum required landscaping for the site. Modification to this requirement may be made according to section 36-397.

(3) *Priority.* Landscaping along the street and as a buffer between adjacent land uses should take priority over parking lot and site landscaping. Where parking lot landscaping cannot be provided, additional landscaping along the street or in the buffer areas shall be provided.

(g) *Summary of minimum landscaping requirements.* The following table summarizes the landscaping regulations contained in this article:

SUMMARY OF PLANTING REQUIREMENTS (See sections 36-392 and 36-393 for details)						
	Landscape Ratio	Height	Minimum Width[1]	Deciduous or Evergreen Trees	Ornamental Trees	Deciduous or Evergreen Shrubs
General site landscaping See § 36-392(a)	—	—	—	1 per3,000 sq ft*	—	—
Landscaping adjacent to roads	—	—	5 ft	1 per 40 lineal ft,	1 per 100 lineal ft.	8 per 40 lineal ft.

See § 36-392(b)						
Berms See § 36-392(c)	—	Maximum 3 ft.	5 ft.	1 per 40 lineal ft.	1 per 100 lineal ft.	8 per 40 lineal ft.
Greenbelts See § 36-392(d)	—	—	5 ft.	1 per 30 lineal ft.	—	Eight shrubs may be substituted for one tree
Greenbelts used for screening See § 36-392(e)	—	Minimum6 ft.	5 ft.	See § 36-392(e)	—	—
Parking lot landscaping See § 36-392(f)	10 sq. ft. per space	—	5 ft.	1 per 300 sq. ft.	—	—

*See alternate standards in section 36-393 for mobile home parks and multiple-family dwellings.

[1] These specifications apply to non-residential properties, except for industrial districts.

(h) *Contents of landscape plan.* Whenever a landscape plan is required under this chapter, the following information shall be included on the plan. Plans shall be provided in the same format and quantity as required for site plans in article XIV, division 2, Site plan review.

(1) *Descriptive and identification data.*

a. Name and address of applicant (and property owner, if different).

b. Name, address, telephone number, and seal of registered professional who prepared the plan.

c. Legal and common description of property.

d. Net acreage (minus rights-of-way) and total acreage, to the nearest tenth of an acre.

e. Written description of proposed use of land.

f. Scale.

g. North arrow.

h. Dates of submission and revision.

(2) *Site data.*

a. Existing lot lines, building lines, structures, parking areas, and other improvements on the site and within one hundred (100) feet of the site.

b. Front, side, and rear setback dimensions.

c. Proposed buildings, structures, roadways, and parking areas, with exterior dimensions.

d. Location of existing drainage courses, bodies of water, floodplains, and wetlands.

e. Location of sidewalks within the site and within adjacent rights-of-way.

f. Location of existing and proposed utility lines, both underground and overhead.

g. Designation of clear vision areas, as required in section 36-303.

(3) *Landscape data.*

a. Location, size, type, and relative health of existing trees five (5) inches or greater in caliper, measured at twelve (12) inches off the ground. The landscape plan shall indicate whether existing trees are to be saved, to be removed, or to be relocated on the site.

b. Location of lawns and landscaped areas, including required greenbelt areas.

c. Location and detail of proposed shrubs, trees, sod, and other live plant materials. This information shall be provided in a planting schedule, included on the plan sheet and detailing the following:

1. Botanical and common name, including cultivar, of all plant materials.

2. The size of each plant to be used at the time of planting.

3. The quantity of each plant to be used.

4. Whether plants are to be balled and burlapped, container grown, bare root, or seed.

d. Amount and type of mulch to be used.

e. Typical planting details for deciduous trees, evergreen trees, shrubs, perennials.

f. Details of tree protection measures for existing trees to be saved.

g. Cross-section of proposed berms, including proposed plant materials to be planted on berms.

h. Dimensions of parking lot landscape islands, including area in square feet.

i. Proposed fences and/or walls, including typical cross-section and elevation views showing dimensions of proposed structures.

j. Proposed planting date.

k. Provisions for irrigation (in-ground systems preferred).

l. Such additional information as may be required by the city to ensure that the intent of the landscaping and screening requirements is met.

(Ord. No. H-07-01, § 10.01, 7-24-07; Ord. No. H-13-04, § 1E, 10-8-13)

Sec. 36-392. General landscaping requirements.

(a) *General site requirements.* All developed portions of the site shall conform to the following general landscaping standards, except where specific landscape elements (e.g., greenbelt, screening) are required:

(1) *Coverage.* All unpaved portions of the site shall be planted with grass, ground cover, shrubbery, or other suitable live plant material, which shall extend to any abutting street pavement edge. Grass areas in the front yard of all nonresidential uses shall be planted with sod.

(2) *Trees.* A mixture of deciduous and evergreen trees shall be planted on nonresidential parcels at the rate of one (1) tree per three thousand (3,000) square feet (or portion thereof) of any unpaved open area for which specific landscaping requirements do not appear later in this article. Required trees may be planted at uniform intervals, at random, or in groupings.

(3) *Variety required.* A mixture of plant materials shall be used as a protective measure against disease and insect infestation.

(4) *Native species encouraged.* The use of trees and shrubs native to Southeast Michigan is encouraged in all landscaping areas. A list of suggested species can be found in section 36-400, Recommended plant materials.

(b) *Landscaping adjacent to roads.* Where required, landscaping adjacent to roads shall comply with the following planting requirements. For the purposes of computing length of road frontage, openings for driveways and sidewalks shall not be counted. Required trees and shrubs may be planted at uniform intervals, at random, or in groupings.

Type of Plant Material	Minimum Requirement
Deciduous or Evergreen Tree	1 tree per 40 lineal feet of road frontage
Ornamental Tree	1 tree per 100 lineal feet of road frontage
Deciduous or Evergreen Shrub	8 shrubs per 40 lineal feet of road frontage

(c) *Berms.* Berms may be used to screen off-street, nonresidential off-street parking areas from view of an adjacent street; however, any proposed use of a berm shall be subject to planning commission review on a case-by-case basis for appropriateness. All berms shall conform to the following standards:

(1) *Width and slope.* Unless otherwise indicated or appropriate, required berms shall be measured from the grade of the parking lot or flat ground adjacent to the berm, and shall be constructed with slopes no steeper than one (1) foot vertical for each three (3) feet horizontal (thirty-three (33) percent slope), with at least a four-foot-wide flat area on top. Berms shall be located entirely on private property.

(2) *Height.* Berms may undulate in height, subject to review and approval of berm design as shown on the site plan. Unless otherwise indicated, the maximum height of required berms shall be three (3) feet.

(3) *Protection from erosion.* Any required berm shall be planted with sod, ground cover, or other suitable live plant material to protect it from erosion so that it retains its height and shape. The use of railroad ties, cement blocks, and other types of construction materials to retain the shape and height of a berm shall be prohibited unless specifically reviewed and approved by the planning commission.

(4) *Required plantings.* Berms shall be landscaped in accordance with the requirements for landscaping adjacent to roads, subsection (b). All landscaping on a berm shall be designed in a naturalistic manner.

(5) *Measurement of berm length.* For the purposed of calculating required plant material, berm length shall be measured along the exterior edge of the berm.

(d) *Greenbelts.* Where required, greenbelts shall conform to the following standards:

(1) *Measurement of greenbelt length.* For the purposes of calculating required plant material, greenbelt length shall be measured along the exterior edge of the greenbelt.

(2) *General planting requirements.*

a. Grass, ground cover, or other suitable live plant materials shall be planted over the entire greenbelt area, except where paved walkways are used.

b. Except where the greenbelt is used for screening, a minimum of one (1) deciduous or evergreen tree shall be planted for each thirty (30) lineal feet (or portion thereof) of required greenbelt. Alternatively, eight (8) shrubs may be substituted for each required greenbelt tree. Required trees and shrubs may be planted at uniform intervals, at random, or in groupings.

c. Plant materials shall not be placed closer than four (4) feet from the right-of-way line where the greenbelt abuts a public sidewalk.

(3) *Greenbelts used for screening.* Greenbelts used for screening shall be landscaped in accordance with the requirements for Screening, subsection 36-392(e).

(e) *Screening.*

(1) *General screening requirements.* Unless otherwise specified, wherever an evergreen or landscaped screen is required, screening shall consist of closely spaced evergreen plantings (i.e., no farther than fifteen (15) feet apart) which can be reasonably expected to form a complete visual barrier that is at least six (6) feet above ground level within three (3) years of planting.

a. *Deciduous materials.* Deciduous plant materials may be used provided that a complete visual barrier is maintained throughout the year.

b. *Timing adjacent to residential areas.* Wherever screening is required adjacent to residentially zoned or used property, the screening must be installed prior to the beginning of site grading and general construction, except where such activity would result in damage to the screening.

(2) *Screening of equipment.* Mechanical equipment, such as air compressors, pool pumps, transformers, sprinkler pumps, satellite dish antennae, and similar equipment shall be screened on at least three (3) sides. Insofar as practical, said screening shall exceed the vertical height of the equipment being screened by at least six (6) inches within two (2) years of planting.

(f) *Parking lot landscaping.* In addition to required screening, all off-street parking areas shall also provide landscaping as follows:

(1) *Screening.* Parking areas located in front or on the side of a building shall be screened from the road with a three-foot high wall or fence, evergreen landscaping, or an approved alternative. If an evergreen screen is selected, the use of dwarf species is recommended in the interest of minimizing pruning and maintaining the natural form of the plant material. A list of suggested species for parking lot screening can be found in section 36-400, Recommended plant materials.

(2) *Landscaping in off-street parking lots.*

a. *Landscaping ratio.* Off-street parking areas containing more than ten (10) spaces shall be provided with at least fifteen (15) square feet of interior landscaping per parking space. Whenever possible, parking lot landscaping shall be designed to improve the safety of pedestrian and vehicular traffic, guide traffic movement, and improve the appearance of the parking area.

b. *Minimum area.* Landscaped areas in parking lots shall be no less than eight (8) feet in any single dimension and no less than one hundred fifty (150) square feet in area. Landscaped areas in or adjacent to parking lots shall be protected with curbing or other means to prevent encroachment of vehicles.

c. *Larger islands encouraged.* In larger parking lots, the provision of required interior parking lot landscaping in fewer, larger planting areas is encouraged instead of a greater number of smaller planting areas. The application of this standard may be evaluated on a case-by-case basis

d. *Required plantings.* A minimum of one (1) tree shall be planted per three hundred (300) square feet (or fraction thereof) of interior landscaped area. At least fifty (50) percent of each interior landscaped area shall be covered by living plant material, such as sod, shrubs, ground cover, or trees. The landscape plan shall indicate the types, sizes, and quantities of plant material proposed for such areas.

e. *Salt tolerant plants encouraged.* The use of salt-tolerant trees and shrubs is encouraged in parking lot landscaping areas. A list of suggested species can be found in section 36-370, Recommended plant materials.

f. *Other landscaping.* Required landscaping elsewhere on the parcel shall not be counted in meeting the parking lot landscaping requirements. The parking lot landscaping area shall include open areas up to five (5) feet beyond the outer perimeter of the paved area. Landscape materials intended to meet the parking lot landscaping requirements shall be identified as such on the plan.

(g) *Landscaping in public rights-of-way.* Public rights-of-way located adjacent to required landscaped areas and greenbelts shall be planted with grass or other suitable live ground cover, and shall be maintained by the owner or occupant of the adjacent property as if the rights-of-way were part of the required landscaped areas or greenbelts. No plantings except grass or ground cover shall be permitted closer than three (3) feet from the edge of the road pavement.

(h) *Maintenance of unobstructed visibility for drivers.* No landscaping shall be established or maintained on any parcel or in any parking lot which will obstruct the view of drivers. Accordingly, all landscaping shall comply with the requirements for clear vision areas set forth in section 36-303.

(i) *Potential damage to utilities.* In no case shall landscaping material be planted in a way which will interfere with or cause damage to underground utility lines, public roads, or other public facilities. Species of trees whose roots are known to cause damage to public roadways, sewers, or other utilities shall not be planted closer than fifteen (15) feet from any such roadways, sewers, or utilities. Trees shall be set back from overhead utility lines as indicated in the following chart:

Tree Height	Minimum Distance from Center of Trunk to Nearest Utility Line
up to 15 feet	10 feet
15 to 25 feet	20 feet
over 25 feet	30 feet

(j) *Landscaping of divider medians.* Where traffic on driveways, maneuvering lanes, private roads, or similar vehicle access ways is separated by a divider median, the median shall be curbed and have a minimum width of ten (10) feet. A minimum of one deciduous or evergreen tree shall be planted for each thirty (30) lineal feet (or portion thereof) of median. Trees may be planted at uniform intervals, at random, or in groupings, but in no instance shall the center to center distance between trees exceed sixty (60) feet.

(k) *Irrigation.* The site plan shall indicate the proposed method of watering landscaped areas. Installation of an in-ground irrigation/sprinkler system is required for new construction and is encouraged, particularly in front yards, for all other development.

(Ord. No. H-07-01, § 10.02, 7-24-07; Ord. No. H-08-02, § 1B, 3-25-08; Ord. No. H-13-04, § 1E, 10-8-13)

Sec. 36-393. Specific landscaping requirements for zoning districts.

(a) *Landscape requirements for single-family residential lots.* A minimum of one (1) deciduous tree shall be planted along the street frontage of each single-family parcel or lot on which a new dwelling unit is proposed to be constructed.

(b) *Landscape requirements for commercial, office, and industrial districts.* All developed parcels of land located in the C1, C2, CX, O, M1, M2, and MX zoning districts shall comply with the following landscaping requirements:

(1) *General site landscaping.* All developed portions of the site shall conform to the general site requirements in subsection 36-392(a), except where specific landscape elements are required.

a. *Foundation plantings.* A landscaped open area with a minimum width of three feet is required immediately adjacent to all commercial, office, and industrial buildings. Such required open area at the front of a building shall have a sixty (60) percent minimum coverage of shrubs, groundcover, annuals, perennials, ornamental grasses, and/or bulbs. The planning commission may, at its discretion, waive this requirement or approve a unique landscape design that meets the intent of this article.

(2) *Landscaping adjacent to road.* All commercial, office, and industrial developments shall comply with the requirements for landscaping adjacent to the road in subsection 36-392(b). This requirement may be modified or waived by the planning commission for parcels in the CX district with a front setback of less than twenty (20) feet.

(3) *Screening.* Screening in the form of a greenbelt, wall, or fence shall be required wherever a non-residential use in a commercial, office, or industrial district abuts directly upon land zoned for residential purposes. Landscaped screening shall comply with the requirements in subsection 36-392(e). If a wall is used instead of landscaping, the requirements in section 36-398 shall be complied with.

(4) *Parking lot landscaping.* Off-street parking areas containing greater than fifteen (15) spaces shall comply with the requirements for parking lot landscaping in subsection 36-392(f).

(c) *Requirements for the multiple dwelling residential district.* All parcels of land located in the RM zoning district shall comply with the following landscaping requirements:

(1) *General site landscaping.* A minimum of two (2) deciduous or evergreen trees, plus a minimum of four (4) shrubs, shall be planted per dwelling unit. Unless otherwise specified, required landscaping elsewhere in the multiple-family development shall not be counted in meeting these requirements.

(2) *Landscaping adjacent to road.* All multiple-family residential developments shall comply with the requirements for landscaping adjacent to the road in subsection 36-392(b).

(3) *Screening.* Screening in the form of a greenbelt or wall shall be required on all sides of a multiple-family residential development. Landscaped screening shall comply with the requirements in subsection 36-392(e). A wall may be used instead of landscaping adjacent to nonresidential districts subject to the requirements in section 36-398.

(4) *Parking lot landscaping.* Off-street parking areas containing greater than fifteen (15) spaces shall comply with the requirements for parking lot landscaping in subsection 36-392(f).

(5) *Privacy screen.* Where multiple family dwellings are designed so that rear open areas or patio areas front onto a public street, a landscaped privacy screen shall be provided. The screen may consist of a combination of trees, shrubs, and berming, subject to review by the planning commission.

(d) *Requirements for nonresidential uses in residential districts.* All nonresidential uses developed in residential zoning districts shall comply with the following landscaping requirements:

(1) *General site landscaping.* All developed portions of the site shall conform to the general site requirements in subsection 36-392(a), except where specific landscape elements are required.

(2) *Landscaping adjacent to road.* All nonresidential developments located in residential districts shall comply with the requirements for landscaping adjacent to the road in subsection 36-392(b).

(3) *Screening.* Screening in the form of a greenbelt or wall shall be required wherever a nonresidential use abuts directly upon land zoned for residential purposes. Landscaped screening shall comply with the requirements in subsection 36-392(e). If a wall is used instead of landscaping, the requirements in section 36-398 shall be complied with.

(4) *Parking lot landscaping.* Off-street parking areas containing greater than fifteen (15) spaces shall comply with the requirements for parking lot landscaping in subsection 36-392(f).

(Ord. No. H-07-01, § 10.03, 7-24-07; Ord. No. H-13-04, § 1E, 10-8-13)

Sec. 36-394. Standards for landscape materials.

Unless otherwise specified, all landscape materials shall comply with the following standards:

(1) *Plant quality.* Plant materials used in compliance with the provisions of this chapter shall be nursery grown, free of pests and diseases, hardy in Wayne County, in conformance with the standards of the American Association of Nurserymen (ANSI Z60.1), and shall have passed inspections required under state regulations. All plantings shall consist of permanent, living plant materials.

(2) *Non-living plant material.* Plastic and other non-living plant materials shall not be considered acceptable to meet the landscaping requirements of this chapter.

(3) *Plant material specifications.* The following specifications shall apply to all plant material proposed in accordance with the landscaping requirements of this chapter:

a. *Deciduous shade trees.* Deciduous shade trees (e.g., tuliptree, oak) shall be balled and burlapped and not less than three (3) inches in caliper measured six (6) inches above grade when planted.

b. *Deciduous ornamental trees.* Ornamental trees (e.g., redbud, flowering dogwood) shall be balled and burlapped and not be less than two (2) inches in caliper measured six (6) inches above grade when planted. Multi-stemmed ornamental trees (e.g., river birch, serviceberry) shall be balled and burlapped and not be less than seven (7) feet in height.

(3) *Evergreen trees.* Evergreen trees (e.g., spruce, pine) shall be balled and burlapped and not less than seven (7) feet in height when planted. Narrow evergreens (e.g., arborvitae, upright juniper) shall be not less than five (5) feet in height when planted.

(4) *Shrubs.* Shrubs (e.g., viburnum, forsythia) shall be a minimum of twenty-four (24) inches in height when planted. Low growing shrubs (e.g., spreading juniper, compact burning bush) shall have a minimum spread of twenty-four (24) inches when planted.

a. Hedges. Hedges shall be planted and maintained so as to form a continuous, unbroken, visual screen within two (2) years after planting, barring unusual growing conditions, such as drought or disease. Hedges shall be a minimum of two (2) feet in height when planted.

(5) *Vines.* Vines shall be a minimum of thirty (30) inches in length after one (1) growing season.

SUMMARY OF PLANT MATERIAL SPECIFICATIONS (See § 36-394(c) for details)			
Type of Plant Material	Minimum Size	Minimum Height	Maximum Spacing (OC = on center)
Deciduous Trees	3 in. caliper		30 ft. OC (informal grouping)
Ornamental Trees	2 in. caliper		15 ft. OC (informal grouping)
Evergreen Trees	7 ft (std.) 5 ft (narrow)		10 ft. OC
Shrubs	24 in. spread	24 in.	6 ft. OC (informal grouping); 4 ft. OC (rows)
Vines	30 in. after first growing season		

(6) *Ground cover.* Ground cover used in lieu of turf grasses, whether in whole or in part, shall be planted in such a manner as to present a finished appearance and reasonably complete coverage after one (1) complete growing season.

(7) *Grass.* Grass area shall be planted using species normally grown as permanent lawns in Wayne County. Grass, sod, and seed shall be clean and free of weeds, pests, and diseases. Grass may be sodded or seeded. When grass is to be established by a method other than complete sodding or seeding, nurse grass seed shall be sown for immediate effect and protection until complete coverage is otherwise achieved. Straw or other mulch shall be used to protect newly seeded areas.

(Ord. No. H-07-01, § 10.04, 7-24-07)

Sec. 36-395. Installation and maintenance.

(a) *Installation.* Landscaping shall be installed in a sound, workmanlike manner to ensure the continued growth of healthy plant material.

(1) *Mulch.* All trees, shrubs, hedges, and vines shall be mulched with four (4) inches of shredded hardwood bark at the time of planting. Planting beds containing groundcovers, perennials, or annuals shall be mulched with two (2) inches of shredded hardwood bark at the time of planting. Alternative mulches, such as gravel, stone, pavers, or other non-living material, shall be of adequate depth to ensure total coverage and shall be placed on a non-biodegradable weed barrier. The use of alternative mulches is subject to approval by the body reviewing the landscape plan.

(2) *Staking.* Deciduous, evergreen, and ornamental trees shall be staked for one year, or until established. Stakes are to be removed upon the occurrence of either event.

(3) *Layout.* When plant materials are placed in two or more rows, plantings shall be staggered.

(b) *Installation of perimeter landscaping.* Landscaping along the perimeter of a site shall be installed prior to construction, except where such landscaping would be destroyed during construction. Plant materials, except for creeping vines and herbaceous plants, shall not be planted with four (4) feet of any property line.

(c) *Installation of grass areas.* Lots or parcels shall be seeded or sodded within ninety (90) days after occupancy.

(d) *Protection from vehicles.* Landscaping shall be protected from vehicle through use of curbs. Landscape areas shall be elevated above the pavement to a height adequate to protect the plants from snow removal, salt, and other hazards.

(e) *Off-season planting requirements.* If development is completed during the off-season when plants cannot be installed, the owner shall provide a performance guarantee to ensure installation of required landscaping in the next planting season, in accordance with section 36-397, Fees and performance guarantees.

(f) *Maintenance.* Landscaping required by this chapter shall be maintained in a healthy, neat, and orderly appearance, free from weeds, refuse, and debris. Plantings shall be continuously maintained in a sound, healthy, and vigorous growing condition per the approved landscape plan.

(1) *Unhealthy or dead material.* All unhealthy and dead plant material shall be replaced immediately upon notice from the building official, unless the season is not appropriate for planting, in which case such plant material shall be replaced at the beginning of the next planting season.

(2) *Watering.* All landscaped areas shall be provided with a readily available and acceptable supply of water, with at least one (1) spigot located within three hundred (300) feet of all plant material to be established and maintained. Trees, shrubs, and other plantings and lawn areas shall be watered regularly throughout the growing season.

(3) *Constructed elements.* All constructed or manufactured landscape elements, such as but not limited to benches, retaining walls, edging, and so forth, shall be maintained in good condition and neat appearance. Rotted, deteriorated, or damaged landscape elements shall be repaired, replaced, or removed.

(Ord. No. H-07-01, § 10.05, 7-24-07)

Sec. 36-396. Treatment of existing plant material.

(a) *Consideration of existing elements in the landscape design.* The city encourages the preservation of quality and mature trees by providing credits toward the required trees for greenbelts, buffer strips, interior landscaping, and within parking lots. In instances where healthy plant material exists on a site prior to its development, the planning commission may permit substitution of such plant material in place of the requirements set forth previously in this section, provided such substitution is in keeping with the spirit and intent of this article and the chapter in general.

Existing hedges, berms, walls, or other landscape elements may be used to satisfy the requirements of this article, provided that such existing elements are in conformance with the requirements of this section.

(b) *Credit for preserved trees.* All existing plant material to be used to meet the requirements of this article must be of high quality, at least three (3) inches caliper (measured twelve (12) inches above grade), and of a desirable species (i.e., not on the prohibited trees list in section 36-401). Any preserved trees receiving credit which are lost within two (2) years after construction shall be replaced by the landowner with trees otherwise required. The credit for preserved trees shall be as follows:

Caliper of Tree to be Preserved	Number of Required Trees Credited
Less than 3 inches	None
3—8 inches	1
8—12 inches	2
More than 12 inches	3

(c) *Preservation of existing plant material.* Site plans shall show all existing trees which are located in the portions of the site that will be built upon or otherwise altered, and are five inches or greater in caliper, measured twelve (12) inches above grade. Trees shall be labeled "To Be Removed" or "To Be Saved" on the site plan.

(1) *Protective measures.* If existing plant material is labeled "To Be Saved" on the site plan, protective measures should be implemented, such as the placement of fencing at the drip line around each tree. No vehicle or other construction equipment shall be parked or stored within the drip line of any tree or other plant material intended to be saved. To protect and encourage the continued health of the preserved trees, the ground area within the drip line of the trees shall be maintained in vegetative landscape material or pervious surface cover.

(2) *Replacement of plant material to be saved.* In the event that healthy plant materials which are intended to meet the requirements of the chapter are cut down, damaged, or destroyed during construction, said plant material shall be replaced on an inch-for-inch basis with the same species as the damaged or removed tree.

a. *Basis of measurement.* The total inches required for replacement shall be based on the caliper of the damaged tree measured twelve (12) inches above grade. Replacement trees shall be at least three (3) inches in caliper, measured six (6) inches above grade, at the time of planting.

b. *Options in lieu of on-site replacement.* If there is insufficient space on the site to accommodate the total amount of required replacement trees, the developer shall install as many replacement trees as can be planted on the site, subject to the requirements of this article, and do one (1) of the following:

1. Provide the balance of the required replacement trees on another site in the city owned by the developer;

2. Provide the balance of the required replacement trees on a publicly-owned site in the city, such site to be mutually agreeable to the developer and the city; or

3. Deposit a payment in lieu of planting into a fund to be established by the city. Such payment shall be based upon the number of trees that cannot be planted and the amount per tree shall be kept on file in the building department.

(Ord. No. H-07-01, § 10.06, 7-24-07)

Sec. 36-397. Modifications to landscape requirements.

(a) *Authority.* In consideration of the overall design and impact of a specific landscape plan, and in consideration of the amount of existing plant material to be retained on the site, the planning commission, planning subcommittee, or building official may modify the specific requirements outlined herein, provided that any such adjustment is in keeping with the intent of this article and chapter.

(b) *Standards.* In determining whether a modification is appropriate, the planning commission shall consider whether the following conditions exist:

(1) Topographic features or other unique features of the site create conditions such that strict application of the landscape regulations would result in a less effective screen than an alternative landscape design.

(2) Parking, vehicular circulation, or land use are such that required landscaping would not enhance the site or result in the desired screening effect.

(3) The public benefit intended by the landscape regulations could be better achieved with a plan that varies from the strict requirements of the chapter.

(Ord. No. H-07-01, § 10.07, 7-24-07)

Sec. 36-398. Obscuring walls and fences.

(a) *Obscuring wall standards.* Where permitted or required by this chapter, obscuring walls shall be subject to the following requirements:

(1) *Location.* Required obscuring walls shall be placed inside and adjacent to the lot line, except in the following instances:

a. Where underground utilities interfere with placement of the wall at the property line, the wall shall be placed on the utility easement line located nearest the property line.

b. Where landscaping is to be provided on the residential side of a required obscuring wall, the wall shall be placed five (5) feet inside the lot line.

c. Subject to planning commission approval, required walls in a nonresidential district may be located on the side of an alley right-of-way closest to the adjacent residential zone when

mutually agreed upon by affected property owners and residents. The continuity of the required wall shall be considered by the planning commission in reviewing such requests.

(2) *Time of construction.* Wherever construction of an obscuring wall is required adjacent to residentially zoned or used property, the wall shall be installed prior to the beginning of site grading and general construction, except where such activity would result in damage to the wall.

(3) *Corner clearance.* Obscuring walls shall comply with the requirements for clear vision areas set forth in section [36-303].

(4) *Substitution.* As a substitute for a required obscuring wall, the planning commission may, in its review of the site plan, approve the use of other existing or proposed living or manmade landscape features (such as closely spaced evergreens) that would produce substantially the same results in terms of screening, durability, and permanence. Any such substitute screening shall comply with the applicable requirements in section 36-392.

(5) *Waiver.* The planning commission may waive the requirements for an obscuring wall upon making the determination that:

a. The adjoining residential district is in transition and will become nonresidential in the future.

b. Existing physical features provide adequate screening.

(6) *Wall specifications.* Required walls shall be constructed of masonry material that is architecturally compatible with the materials used on the facade of the principal structure on the site, such as face brick, decorative block, or poured concrete with simulated brick or stone patterns.

(7) *Height requirements.* For the uses and districts listed below, an obscuring wall shall be provided as specified along property lines that abut a residential district:

Proposed Use	Wall Height Requirements		
	0 to 3 ft[1]	3 to 10 ft[1]	Beyond 10 ft[1]
Off-street parking	0 to 2½ ft	2½ ft	4½ ft
C1, C2, CX, or O zoning district	0 to 2½ ft	2½ ft	4½ ft
M1, M2, or MX zoning district	0 to 2½ ft	2½ ft	6 ft. minimum; up to 8 ft. to screen permitted storage, loading, & service areas
Utility buildings and substations	0 to 2½ ft	2½ ft	6 ft
Footnotes: [1] To be measured from the road right-of-way			

(Ord. No. H-07-01, § 10.08, 7-24-07; Ord. No. H-08-02, § 1C, 3-25-08)

Sec. 36-399. Walls in residential districts.

(a) *General standards.* Walls shall be permitted in residential districts, subject to the location and height standards for fences set forth in chapter 13 of the City Code of Ordinances. Walls in residential districts shall be constructed of masonry material that is architecturally compatible with the materials on the facade of the principal structure, such as face brick or decorative block.

(b) *Entranceway structures.* Entranceway structures, such as walls, columns, or gates shall be permitted at the entrance to a residential or nonresidential subdivision or condominium development, industrial park, or business park, subject to the following conditions:

(1) Entranceway structures shall be located on private property outside of the road right-of-way, except that such structures may be located in the median of a boulevard entrance to a subdivision or other residential development (in the road right-of-way), subject to approval by the city and subject to compliance with the requirements for clear vision areas set forth in section 36-303. Entranceway structures located on private property may be within the required front setback area.

(2) Entranceway structures shall not exceed five (5) feet in height and sixty (60) square feet in size.

(3) Approval of the building official and issuance of a building permit shall be required prior to construction of any entranceway structure.

(Ord. No. H-07-01, § 10.09, 7-24-07)

Sec. 36-400. Recommended plant materials.

(a) *Disclaimer.* The lists of plant materials provided below are recommendations only and do not imply appropriateness for all uses. A landscape professional should be consulted regarding plant material selection for individual sites.

(b) *Plant materials native to Southeast Michigan.* The use of the following species is encouraged to provide food and habitat for wildlife and to reflect the natural heritage of Southeast Michigan.

RECOMMENDED NATIVE PLANT MATERIALS			
Botanical Name	Common Name	Tree or Shrub	Remarks
Acer rubrum	Red maple	tree	
Acer saccharum	Sugar maple	tree	
Amelanchier arborea	Downy serviceberry	small tree	
Amelanchier Canadensis	Shadblow serviceberry	small tree	
Amelanchier laevis	Allegheny serviceberry	small tree	
Betula alleghaniensis	Yellow birch	tree	
Carya cordiformis	Bitternut hickory	tree	
Carya glabra	Pignut hickory	tree	
Carya ovata	Shagbark hickory	tree	
Celtis occidentalis	Common hackberry	small tree	
Cercis Canadensis	Redbud	tree	
Cornus alternifolia	Alternate-leaf dogwood	small tree	
Cornus florida	Flowering dogwood	tree	
Cornus stolonifera	Red-osier dogwood	shrub	
Crataegus crus-galli	Cockspur hawthorn	tree	thornless varieties preferred
Crataegus mollis	Downy hawthorn	tree	thornless varieties preferred
Euonymus obovata	Creeping strawberry bush	shrub	
Fagus grandifolia	American beech	tree	
Gymnocladus dioicus	Kentucky coffeetree	tree	
Hamamelis virginiana	Witchhazel	shrub	
Ilex verticillata	Michigan holly	shrub	

Juglans nigra	Black walnut	tree	
Larix laricina	Eastern larch	tree	
Lindera benzoin	Spicebush	shrub	
Liriodendron tulipifera	Tuliptree	tree	
Nyssa sylvatica	Black gum	tree	
Platanus occidentalis	Sycamore	tree	
Quercus alba	White oak	tree	
Quercus bicolor	Swamp white oak	tree	
Quercus rubra	Red oak	tree	
Ribes americanum	American black currant	shrub	
Sambucus Canadensis	American elderberry	shrub	
Spiraea alba	Meadowsweet	shrub	
Thuja occidentalis	Northern white cedar	tree	
Tilia Americana	American basswood	tree	
Viburnum acerifolium	Maple-leaf viburnum	shrub	
Viburnum lentago	Nannyberry viburnum	shrub	
Viburnum prunifolium	Blackhaw viburnum	shrub	

(c) *Recommended plant species for parking lots.* The following species are recommended for use in parking lot islands, road edges, and other location susceptible to high levels of salt in the air or soil.

RECOMMENDED PLANT MATERIALS FOR PARKING AREAS			
Botanical Name	Common Name	Tree or Shrub	Remarks
Carya cordiformis	Bitternut hickory	tree	
Carya ovata	Shagbark hickory	tree	
Clethra alnifolia	Summersweet	shrub	
Cotoneaster spp.	Cotoneaster	shrub	
Crataegus crus-galli	Cockspur hawthorn	tree	thornless varieties preferred
Crataegus mollis	Downy hawthorn	tree	thornless varieties preferred
Gingko biloba	Gingko (male only)	tree	
Gleditsia triacanthos	Honey locust (male only)	tree	thornless varieties preferred
Hamamelis virginiana	Witchhazel	shrub	
Hydrangea spp.	Hydrangea	shrub	
Ilex verticillata	Michigan holly	shrub	
Juglans cinerea	Butternut	tree	
Malus x 'Snowdrift'	Snowdrift crabapple	small tree	
Picea glauca	White spruce	evergreen	
Picea pungens	Colorado spruce	evergreen	
Pinus mugo	Mugo pine	evergreen	
Potentilla fruticosa	Potentilla	shrub	
Pyrus 'Redspire'	Redspire pear	small tree	
Pyrus 'Cleveland Select'	Cleveland Select pear	small tree	
Quercus alba	White oak	tree	
Quercus bicolor	Swamp white oak	tree	

Quercus robur	English oak	tree	
Rosa rugosa	Rugosa rose	shrub	
Sambucus Canadensis	American elderberry	shrub	
Spiraea x bumalda	Spiraea	shrub	
Spiraea japonica	Little Princess spiraea	shrub	
Syringa patula 'Miss Kim'	Miss Kim lilac	shrub	
Taxodium distichum	Bald-cypress	tree	
Tilia cordata	Little-leaf linden	tree	
Zelkova serrata	Japanese zelkova	tree	

(d) *Recommended plant species for parking lot screening.* The following list of species is suggested for effective screening in a high-salt environment.

RECOMMENDED PLANT MATERIALS FOR PARKING LOT SCREENING		
Botanical Name	Common Name	Remarks
Taxus x media	Yew	appropriate cultivars include 'Densiformis', 'Hicksii'
Pinus mugo	Mugo pine	dwarf varieties
Thuja occidentalis	Arborvitae	dwarf varieties
Juniperus spp.	Juniper	upright forms including Hetz and Wichita Blue

(e) *Suggested plant species for use near utilities.* The use of the following species is encouraged in locations where underground or overhead utility clearance is an issue. Contacting the local utility company for a list of suggested trees and shrubs is also recommended.

RECOMMENDED PLANT MATERIALS NEAR UTILITIES		
Botanical Name	Common Name	Remarks
Acer campestre	Hedge maple	
Acer griseum	Paperbark maple	
Acer palmatum	Japanese maple	
Amelanchier arborea	Serviceberry	
Betula nigra	River birch	
Cercis Canadensis	Redbud	
Cornus alternifolia	Alternate-leaf dogwood	
Cornus kousa	Japanese dogwood	
Cornus mas	Cornelian cherry dogwood	
Corylus colurna	Turkish filbert	
Crataegus spp.	Hawthorn	thornless varieties preferred
Euonymus alatus	Dwarf burning bush	
Forsythia x intermedia	Forsythia	
Magnolia stellata	Star magnolia	
Malus spp.	Flowering crabapple	
Rhododendron spp.	Rhododendron	
Syringa vulgaris	Common lilac	
Viburnum spp.	Viburnum	

(Ord. No. H-07-01, § 10.10, 7-24-07)

Sec. 36-401. Prohibited plant materials.

Plant materials not recommended for use. Use of the following plant materials (or their clones or cultivars) is not encouraged because of susceptibility to storm damage, disease, propensity to out-compete native species, and other undesirable characteristics

PROHIBITED PLANT MATERIALS		
Botanical Name	Common Name	Remarks
Acer negundo	Box elder	
Acer saccharinum	Silver maple	
Ailanthus altissima	Tree of heaven	
Elaeagnus angustifolia	Russian olive	
Elaeagnus umbellate	Autumn olive	
Fraxinus spp.	Ash	
Gingko biloba	Gingko (female)	male trees are acceptable
Gleditsia triacanthos	Honey locust (female)	male trees are acceptable
Ligustrum spp.	Privet	
Lonicera spp.	Honeysuckle	
Morus alba	White mulberry	
Populus spp.	Poplar; Aspen; Cottonwood	
Rhamnus spp.	Buckthorn	
Robinia pseudoacacia	Black locust	
Rosa mulitflora	Japanese rose	
Salix spp.	Willow	
Ulmus Americana	American elm	disease resistant cultivars are acceptable
Ulmus pumila	Siberian elm	

(Ord. No. H-07-01, § 10.11, 7-24-07)

Secs. 36-402—36-420. Reserved.

ARTICLE XI. RESERVED

Secs. 36-421—36-440. Reserved.

ARTICLE XII. EXTERIOR LIGHTING

Sec. 36-441. Preliminaries.

(a) *Intent.* The regulations in this section are intended to protect the general welfare by allowing sufficient lighting for parking areas, walkways, driveways, building entrances, loading areas, and common areas to

ensure the security of property and safety of persons; minimizing the adverse effects of inappropriate lighting, including glare, light trespass onto adjoining properties, and light pollution and sky glow; conserving energy and resources; and encouraging the use of lighting that complements and enhances the character of the city.

(b) *Scope.* The standards of this article shall apply to all exterior lighting sources and to all light sources visible from any street right-of-way or residential lot.

(c) *Definitions.* Words and phrases used in this section shall have the meaning set forth below. Words and phrases not defined herein but defined in article II shall be given the meanings set forth in article II. All other words and phrases shall be given their common, ordinary meaning, unless context clearly requires otherwise.

Bulb (or lamp) means the source of electric light (to be distinguished from the whole assembly, which is called the luminaire). "Lamp" is often used to denote the bulb and its housing.

Disability glare means an intense and blinding light that results in reduced visual performance and visibility, and is often accompanied by discomfort.

Filtered fixture means a light fixture that has a glass, acrylic, or translucent enclosure to filter the light.

Fixture means the assembly that holds the lamp in a lighting system. The fixture includes the elements designed to give light output control, such as a reflector (mirror), refractor (lens), ballast, housing, and the attachment parts.

Floodlight means a fixture or lamp designed to "flood" an area with light.

Foot-candle means a measure of light intensity; the level of illuminance produced on a surface one (1) foot from a uniform point source of one (1) candela, or, when one (1) lumen is distributed into an area of one (1) square foot.

Fully shielded fixture means an outdoor lighting fixture that is shielded or constructed so that all light emitted is projected onto the site and away from adjoining properties. Light from a fully shielded fixture is not visible from adjoining properties, and does not cause glare or interfere with the vision of motorists.

High pressure sodium (HPS) lamp means a high-intensity discharge lamp where radiation is produced from sodium vapor at relatively high partial pressures (100 torr).

Incandescent lamp means a lamp that produces light by a filament heated to a high temperature by electric current.

Laser source light means an intense beam of light, in which all photons share the same wavelength.

Light trespass means light falling where it is not wanted or needed (also called spill light).

Low pressure sodium (LPS) lamp means a discharge lamp where the light is produced by radiation from sodium vapor at a relatively low partial pressure (about 0.001 torr). A LPS lamp produces monochromatic light.

Lux means a measure of light intensity. One (1) lux is one (1) lumen per square meter. One (1) foot-candle is one (1) lumen per square foot.

Luminaire means the complete lighting unit, including the lamp, fixture, and other parts.

Mercury vapor lamp means a high-intensity discharge lamp where the light is produced by radiation from mercury vapor.

Metal halide lamp means a high-intensity discharge mercury lamp where the light is produced by radiation from metal-halide vapors.

Non-essential lighting means outdoor lighting which is not required for safety or security purposes.

Recessed canopy fixture means an outdoor lighting fixture recessed into a canopy ceiling so that the bottom of the fixture is flush with the ceiling.

(Ord. No. H-07-01, § 12.01, 7-24-07)

Sec. 36-442. General requirements.

(a) *Minimum illumination.* Sufficient lighting, as specified in the following table, shall be required for parking areas, walkways, driveways, building entrances, loading areas, and public common areas to ensure the security of property and safety of persons.

Location	Recommended Minimum Illumination
Parking Areas (nonresidential)	0.2 foot-candles
Loading Areas	0.4 foot-candles
Sidewalks—Residential Areas	0.2 foot-candles
Sidewalks—Commercial Areas	0.9 foot-candles
Building Entrances—Infrequent Use	1.0 foot-candles
Building Entrances—Active Use	5.0 foot-candles

For locations other than those identified in the above table, sufficient lighting shall be based on recommendations in the most recent edition of the "Illuminating Engineering Society of North America (IESNA) Lighting Handbook."

(b) *Fixture orientation and shielding.* Lighting fixtures shall be focused downward and shall be fully shielded to prevent glare and sky glow and to minimize light trespass onto adjoining properties. Full cut-off fixtures shall be used to prevent light from projecting above a ninety (90) degree horizontal plane.

(c) *Non-essential lighting.* Non-essential lighting shall be turned off after business hours, leaving only that lighting that is necessary for site security. Proposed security lighting shall be identified on the site plan.

(d) *Light trespass at property line.* Light trespass from a property shall not exceed 0.5 foot-candles at the property line, measured five (5) feet from the ground.

(e) *Uplighting.* Uplighting of buildings for aesthetic purposes shall be confined to the target surface as much as possible to prevent sky glow.

(f) *Canopy lights.* Light fixtures mounted on the underside of a canopy or similar structure shall be fully recessed into the canopy ceiling so that the bottom of the fixture and the lens are flush with the canopy ceiling. The total initial lamp output under a canopy shall not exceed forty (40) lumens per square foot of canopy.

(g) *Sign lighting.* Illuminated signs shall comply with the regulations set forth in chapter 26, Signs.

(Ord. No. H-07-01, § 12.02, 7-24-07)

Sec. 36-443. Permitted lighting sources and shielding requirements.

Use and shielding. Outdoor lighting shall comply with the following use and shielding requirements:

Lamp Type	Permitted Use	Shielding Requirement
High Pressure Sodium; Low Pressure Sodium	Street lighting; parking & security areas; sports lighting; residential security lighting	Full

Metal Halide (filtered and in enclosed luminaries only)	Sign lighting, display and sports lighting, where color rendering is critical	Full
Fluorescent (warm white and natural lamps preferred)	Residential lighting, internal sign lighting	Full
Incandescent greater than 100 watts or 1,700 lumens	Sensor activated residential lighting	Full
Incandescent less than 100 watts or 1700 lumens	Porch lighting and other low-wattage residential uses	None
Any light source of 50 watts or less	Any	None
Glass tubes filled with neon, argon, and krypton	Display/advertising	None
Other sources	Subject to administrative review.	

(Ord. No. H-07-01, § 12.03, 7-24-07)

Sec. 36-444. Height.

(a) *Maximum height.* Lighting fixtures on parcels used for nonresidential purposes shall not exceed a height of twenty (20) feet measured from the ground level to the centerline of the light source. The maximum height of lighting fixtures in an accessory off-street parking area shall not exceed fifteen (15) feet, as measured from the average grade level of the parking area.

(b) *Light coverage.* Fixtures should provide an overlapping pattern of light at a height of approximately seven (7) feet above ground level.

(c) *Modification.* The planning commission may modify these height standards in commercial and industrial districts, based on consideration of the following: the position and height of buildings, other structures, and trees on the site; the potential off-site impact of the lighting; the character of the proposed use; and, the character of surrounding land use. In no case shall the lighting exceed the maximum permitted building height in the district in which it is located.

(Ord. No. H-07-01, § 12.04, 7-24-07)

Sec. 36-445. Prohibited lighting.

(a) *Recreational facility lighting.* No outdoor recreational facility, public or private, shall be illuminated after 11:00 p.m., except to conclude a permitted recreational or sporting event or other activity in progress prior to 11:00 p.m.

(b) *Outdoor building and landscaping lighting.* Unshielded illumination of the exterior of a building or landscaping is prohibited except with fixtures having lamps of one thousand seven hundred (1,700) lumens or less.

(c) *Mercury vapor and wall pack lighting.* The installation of mercury vapor fixtures is prohibited. Wall pack fixtures are also prohibited, except where the lens is fully shielded.

(d) *Laser source light.* The use of laser source light or any similar high intensity light for outdoor advertising or entertainment, when projected above the horizontal, is prohibited.

(e) *Searchlights.* The operation of searchlights for advertising purposes is prohibited between 10:00 p.m. and sunrise the following morning.

(Ord. No. H-07-01, § 12.05, 7-24-07)

Sec. 36-446. Exempt lighting.

The following exterior lighting shall be exempt from the regulations in this article:

(1) *Fossil fuel light.* Fossil fuel light produced directly or indirectly from the combustion of natural gas or other utility-type fossil fuels (e.g., gas lamps).

(2) *Temporary carnival and civic uses.* Lighting for a permitted temporary circus, fair, carnival, or civic uses is exempt from the provisions of this article.

(3) *Construction and emergency lighting.* Lighting necessary for construction or emergencies is exempt from the provisions of this article provided that said lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency.

(4) *Special conditions.* Additional exceptions may be permitted, subject to site plan review, and upon finding that unique or special conditions on the site warrant the exception.

(5) *Low illuminance lights.* The shielding requirements specified herein shall not apply to incandescent lights of one hundred (100) watts (one thousand seven hundred (1,700) lumens) or less and to other types of lights of fifty (50) watts or less.

(6) *Traditional or decorative fixtures.* The orientation and shielding requirements may be waived or modified for traditional-style or decorative lighting fixtures, upon making the determination that the fixtures will comply with the illumination levels specified herein, will not cause glare or interfere with the vision of motorists, and will be consistent with the spirit and intent of this chapter.

(Ord. No. H-07-01, § 12.06, 7-24-07)

Sec. 36-447. Application for a permit.

(a) Any person applying for site plan approval or for a building, electrical, or sign permit to install outdoor lighting fixtures, whether for new or replacement lighting, shall submit evidence that the proposed work will comply with this article.

(b) The site plan or building, electrical, or sign permit application shall identify the location, type, height, method of mounting, and intensity of proposed lighting. If available, the manufacturer's catalog specifications and documents, drawings (including a photometric map showing proposed illumination levels on the site), and certified test reports shall be submitted. The information submitted shall be sufficiently complete to demonstrate compliance with chapter requirements.

(Ord. No. H-07-01, § 12.07, 7-24-07)

Sec. 36-448. Exceptions.

It is recognized by the city that certain uses or circumstances may have special exterior lighting requirements not otherwise addressed by this article. The zoning board of appeals may waive or modify specific provisions of this article for a particular use or circumstance, upon determining that all of the following conditions have been satisfied:

(1) A public hearing shall be held for all lighting exception requests, in accordance with the procedures set forth in section 36-481, Public hearing procedures.

(2) The waiver or modification is necessary because of safety or design factors unique to the use, circumstance, or site.

(3) The minimum possible light intensity is proposed that would be adequate for the intended purpose. Consideration shall be given to maximizing safety and energy conservation and to minimizing light pollution, off-site glare, and light trespass onto neighboring properties or street rights-of-way.

(4) For lighting related to streets or other vehicle access areas, a determination is made that the purpose of the lighting cannot be achieved by installation of reflectorized markers, lines, informational signs, or other passive means.

(5) Additional conditions or limitations may be imposed by the ZBA to protect the public health, safety, or welfare, or to fulfill the spirit and purpose of this article.

(Ord. No. H-07-01, § 12.08, 7-24-07)

Secs. 36-449—36-460. Reserved.

ARTICLE XIII. RESERVED

Secs. 36-461—36-475. Reserved.

ARTICLE XIV. PROCEDURES AND STANDARDS

DIVISION 1. APPLICATIONS AND PROCEDURES

Sec. 36-476. Applicability.

(a) *In general.* The general procedures for processing of all requests for city action or review under the provisions of this chapter are described in this article. There are additional and more specific procedures and standards set forth in other parts of this chapter as follows:

Procedure	Article or Division No.
Site Plan Review	Art. XIV, Div. 2
Special Land Use	Art. XIV, Div.3
Planned Development	Art. XVI
Public Hearing Process	Sec. 36-481
Variances and Appeals	Art. XIV, Div. 5
Amendments	Art. XIV, Div. 4
Temporary Uses	Art. VIII
Permits and Certificates	Art. I

(Ord. No. H-07-01, § 14.101, 7-24-07)

Sec. 36-477. Application filing.

Forms. Any person requesting any action or review under the provisions of this chapter shall file an application on the forms provided by the city. The information required on each form shall be typed or legibly written on the form or on separate sheets attached to the form.

(Ord. No. H-07-01, § 14.102, 7-24-07)

Sec. 36-478. General approval process.

The general approval process for site plan review, special land use, planned development, and rezoning applications shall be as follows:

(1) *Optional pre-filing conference.* Applicants may request to meet with any consultants designated by the city council, and the building official, to preliminarily review applications prior to filing. Such pre-filing conferences are intended to assist the applicant and facilitate the future review and approval of the application. The city's consultants' fees for any such pre-filing conference shall be paid by the applicant and submitted to the building department prior to the scheduling of the pre-filing conference. No suggestions, recommendations, or other comments made by city officials, staff, or consultants at such conferences shall constitute approval of any application.

(2) *Processing and review.*

a. All applications accepted by the city shall be submitted to all appropriate city staff and consultants for their review and recommendation, and shall be in writing. The application shall be submitted along with all recommendations, to the planning commission no later twenty-eight (28) days before the scheduled meeting date.

b. The staff and consultants may advise and assist the applicant in meeting chapter requirements and may approve or disapprove any application, but only as expressly provided in this section.

(Ord. No. H-07-01, § 14.103, 7-24-07)

Sec. 36-479. Planning commission action.

The planning commission shall review all applications at a public meeting. The planning commission shall consider all recommendations of the staff and consultants.

(1) *Decisions.* All applications that the planning commission has been charged with the authority to approve under the provisions of this chapter shall be approved, denied, or approved subject to conditions. The planning commission may table or postpone any such applications for further study or obtain additional information, but shall not unreasonably delay its final decision without the consent of the applicant. All decisions of the planning commission shall be in accordance with the purpose and intent of this chapter and all applicable standards and requirements set forth in this chapter.

(2) *Recommendations.* For those applications that the planning commission has been charged with the authority to review and make a recommendation to the city council. The planning commission may recommend approval, denial, or approval subject to conditions. The planning commission may table or postpone any such applications for further study or to obtain additional information, but shall not unreasonably delay its recommendation without the consent of the applicant. All recommendations shall be in accordance with the purpose and intent of this chapter and all applicable standards and requirements set forth in this chapter.

(3) *City council action.* The city council shall review all applications at a public meeting. The council shall consider all recommendations of the staff, consultants and the planning commission. The council may approve, deny, or approve subject to conditions, all applications it reviews. The council may table or postpone any application for further study or to obtain additional information, but shall not unreasonably delay its final decision without the consent of the applicant. All decisions of the city council shall be in accordance with the purpose and intent of this chapter and all applicable standards and requirements set forth in this chapter.

(Ord. No. H-07-01, § 14.104, 7-24-07)

Sec. 36-480. Filing fees.

(a) All applications shall be accompanied by a filing fee which shall be established by resolution of the city council, in accordance with Section 406 of Public Act 110 of 2006, as amended. This filing fee may include a deposit toward the costs of any consultants retained by the city for reviewing the application, such as consulting planning services, consulting engineering services, legal services, court reporter services, or similar services. The filing fee and deposit shall be paid before the approval process begins. Upon notification of deficient payment of fees, administrative officials charged with enforcement of the chapter shall suspend further review of the application and shall deny any new permits.

(b) Any deposit toward the cost of any consultants shall be credited against the expense to the city of such consultants, which shall be fully charged to the applicant. Any portion of the deposit not needed to pay such expense shall be refunded without interest to the applicant within thirty (30) days of final action on the application.

(c) A schedule of the current filing fees and deposit requirements shall be made available in the office of the city clerk and the building department.

(d) The assessment and payment of application fees does not affect the requirements for a performance guarantee as specified in section 36-7.

(e) There shall be no fee in the case of application filed in the public interest by a municipal department or city official.

(Ord. No. H-07-01, § 14.105, 7-24-07)

Sec. 36-481. Public hearing process.

This section shall present the basic provisions which shall apply to the following applications that require a public hearing:

Amendments (including Rezonings)

Variances

Special Land Uses

Planned Development

(1) *Public notice.* The following public notice procedure shall apply for any public hearing:

a. *Notice contents.* The notice shall contain the following information, where applicable:

1. A description of the nature of the application and the purpose of the public hearing;

2. A statement indicating the applicable sections of the zoning ordinance;

3. A legal description and, when known, the address of the property;

4. A statement of when and where the public hearing will be held;

5. A statement of when and where written comments can be sent concerning the application.

b. *Newspaper publication and written notification.* The general requirements for newspaper publication and written notification shall be as indicated in the following chart:

Action Requested	Newspaper Publication Requirements	Written Notification Requirements
Adoption of a New Ordinance (i, viii)	iii	vii
Ordinance Amendment (i, viii)	iii	vii
Rezoning (i, viii)	iii (see also v)	v
Special Land Use (i)	iii	iv
Planned Development (i, viii)	iii	iv
Variance (ii)	iii	vi

Footnotes:

i. The planning commission must hold at least one (1) public hearing.

ii. The zoning board of appeals must hold a public hearing.

iii. Notices of public hearings must be published in a newspaper of general circulation within the city not less than fifteen (15) days prior to the date of the hearing.

iv. Notices must be mailed to owners and occupants of all properties and structures within three hundred (300) feet of the subject site, including those outside of the city (in adjacent cities, villages or city's), if applicable. Notices must be postmarked not less than fifteen (15) days prior to the date of the hearing.

v. If ten (10) or fewer adjacent properties are involved, notice must be sent by mail to the owners and occupants of all property and structures within three hundred (300) feet of the subject site, including those outside of the city, if applicable. If eleven (11) or more adjacent properties are involved, no additional notification is necessary and addresses may be omitted from the notice published in the newspaper. Notices must be postmarked not less than fifteen (15) days prior to the date of the hearing.

vi. Notification of a dimensional variance request must be sent by mail to the owners and occupants of all property and structures within three hundred (300) feet of the subject site, including outside of the city if applicable. Notification of an ordinance interpretation or decision appeal need not be sent by mail to surrounding property owners and occupants unless the interpretation or decision appeal involves a specific parcel, in which case notification must be sent by mail to the owners and occupants of all property within three hundred (300) feet of the subject site. Notices must be postmarked not less than fifteen (15) days prior to the date of the hearing.

vii. Notice must be mailed to each electric, gas and pipeline utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and each airport manager, that has registered its name and mailing address with the clerk to receive such notice. Notices must be postmarked not less than fifteen (15) days prior to the date of the hearing.

viii. A property owner may request by certified mail, addressed to the clerk, that the city council hold a public hearing to hear comments on a proposed ordinance provision (adoption of a new ordinance, ordinance amendment, rezoning or planned development). Newspaper publication and written notification requirements shall be made as set forth in this section for the corresponding type of proposed ordinance provision. It shall be the responsibility of the property owner requesting the public hearing to pay for the costs incurred by the city for notification of the public hearing.

(Ord. No. H-07-01, § 14.106, 7-24-07)

Sec. 36-482. Disclosure of interest.

The full name, address, telephone number, and signature of the applicant shall be provided on the application. If the application involves real property in the city, the applicant must be the fee owner, or have identified legal interest in the property, or be an authorized agent of the fee owner. A change in ownership after the application is filed shall be disclosed prior to any public hearing or the final decision on the application.

(1) *Required disclosure when applicant is not fee owner.* If the applicant is not the fee owner, the application should indicate interest of the applicant in the property, and the name and telephone number of all fee owners. An affidavit of the fee owner shall be filed with the application stating that the applicant has authority from the owner to make the application.

(2) *Required disclosure when applicant is a corporation or partnership.* If the applicant or fee owner is a corporation, the names and addresses of the corporation officers and registered agent shall be provided, and if a partnership, the names and addresses of the partners shall be provided.

(3) *Required disclosure when applicant or owner is a land trust.* If the applicant or fee owner is a trust or a trustee thereof, the full name, address, telephone number, and extent of interest of each beneficiary must be provided.

(Ord. No. H-07-01, § 14.107, 7-24-07)

Sec. 36-483. Records.

The city shall keep accurate records of all decisions on all applications submitted pursuant to this chapter.

(Ord. No. H-07-01, § 14.108, 7-24-07)

Secs. 36-484—36-490. Reserved.

DIVISION 2. SITE PLAN REVIEW

Sec. 36-491. Purpose and intent.

The purposes of site plan review are to determine the following:

• Compliance with this zoning code;

• To promote the orderly development/redevelopment of the city through an open and predictable review process.

• To promote the stability of land values and investments and the general welfare;

• To help prevent the impairment or depreciation of land values and development/redevelopment by the erection of structures or additions thereto without proper attention to siting and appearance;

• To require the gradual upgrade of existing sites that do not conform with current standards of this Zoning Code; and

• To ensure that the arrangement, location, design and materials within a site are consistent with the character of the city and the goals and design guidelines in the comprehensive development plan.

(Ord. No. H-07-01, § 14.201, 7-24-07)

Sec. 36-492. Site plan requirement.

(a) Submission of a site plan shall be required prior to the erection of any building or structure in any zoning district for any principal permitted used in the city, any land use requiring special approval, conditional rezoning, or planned development, other than one (1) single-family residence and accessory buildings and structures thereto, subject to the procedures set forth in this section unless otherwise provided in subsection 36-493(b).

(b) A sketch plan, rather than a complete site plan package, may be submitted for minor modifications to a legally existing and conforming use and building which is permitted in the zoning district including alterations to a building or site that do not result in expansion or substantially affect the character or intensity of the use, vehicular or pedestrian circulation, drainage patterns, the demand for public infrastructure or services, significant environmental impacts or increased potential for hazards, as set forth in subsection 36-493(b)(2). Sketch plans are further subject to the following restrictions:

(1) Submittal of a sketch plan shall be limited to proposals eligible for building official review and approval.

(2) Uses requiring special land use approval, conditional rezoning, and planned developments are not eligible for sketch plan review.

(c) Construction, moving, relocating structurally altering a single- or two-family home including any customarily incidental accessory structure shall not require a site plan.

(Ord. No. H-07-01, § 14.202, 7-24-07)

Sec. 36-493. Authority to approve site plans.

(a) *Planning commission approval.* Planning commission approval of a site plan is required prior to establishment, construction, expansion, or structural alteration of any structure or use, as follows:

(1) All special uses, conditional zoning, and planned development requests, subject to the provisions of this chapter.

(2) All residential subdivision and condominium developments, single- and multiple family, subject to the provisions of this chapter, except that planning commission approval of a site plan is not required for the construction, moving, relocating or structurally altering of a single- or two-family home, including any customarily incidental accessory structure.

(3) All office, commercial, and industrial developments, subject to the provisions of this chapter.

(4) All other uses, not specifically mentioned in subsection (b), subject to the provisions of this chapter.

(5) Any construction, expansion or alteration greater than one thousand five hundred (1,500) square feet to an existing building or use.

(6) Construction, expansion or alteration of a manufactured housing park, as defined in article II (Definitions), shall be subject to preliminary plan approval in accordance with the procedures and standards of section 36-145, (Mobile home park).

(7) Construction, expansion or alteration of a condominium, as defined in article II (Definitions), shall be subject to the procedures and standards of article VIII, division 5 (Condominium regulations).

(8) Construction, expansion or alteration of a planned development (PD) project shall be subject to development plan approval in accordance with the procedures and standards of article XIV (Planned Development).

(9) Essential services and public utilities and facilities, subject to the provisions of this chapter.

(10) Development of a non-single-family residential use in a single-family district, subject to the provisions of this chapter.

(11) Any excavation, filling, soil removal, mining or creation of ponds related to a residential, office, commercial or industrial development project, subject to the provisions of this chapter.

(12) Any development that proposes a new means of ingress and egress onto a public or private road, subject to the provisions of this chapter.

(13) Vacation of a road or road easement.

(14) Any proposal that involves a variance or non-conforming use and/or structure, subject to the provisions of this chapter.

(15) Modifications to an approved site plan for a special land use, conditional rezoning and/or planned development.

(16) Modifications to an approved site plan deemed not minor, in accordance with subsection 36-499(i).

(b) *Administrative review.* Projects eligible for administrative approval include development projects, uses, and activities, which have been determined to be appropriate for an administrative site plan review and approval of a subcommittee of the planning commission or the building official, by the building official.

In the case of reuse or expansion of an existing building or structure, an approved site plan must be on file at the city to be eligible for administrative review. The following provisions shall apply to administrative reviews:

(1) Review by a subcommittee of the planning commission.

a. A subcommittee of the planning commission (the "subcommittee") shall be established in accordance with section 3, article VI, Committees of the City of Dearborn Heights Planning Commission Bylaws, and shall consist of the building official or his designee, three members of the planning commission, of which one shall be the chairperson of the planning commission or her designee, and the city's planning consultant, if requested by the planning commission chair.

b. Subcommittee approval of a site plan is required prior to the establishment, construction, expansion, or structural alteration of any structure or change of use, as follows:

1. Construction of an addition to an existing building or expansion of an existing, conforming use, subject to the following:

(i) The proposed addition or expansion shall not increase the total square footage of the building or area occupied by the use by more than one thousand five hundred (1,500) square feet, provided further that no other expansion has occurred within the past three (3) years.

(ii) The proposed additional or expansion excludes a single-family dwelling.

2. Co-location on an existing wireless communication facility.

3. Family day care homes (less than six (6) children), as licensed by the State of Michigan.

4. Modifications to an approved site plan not deemed minor, in accordance with subsection 36-499(i).

5. Modifications to an approved site plan for a special land use, conditional zoning, or planned development project are not eligible for subcommittee review.

6. Subcommittee approval of a site plan is not required for the construction, moving, relocating or structurally altering of a single or two-family home, including any customarily incidental accessory structure.

7. The subcommittee of the planning commission or applicant shall have the option to request planning commission review of a project that would otherwise eligible for approval by the subcommittee, with all costs associated with such review borne by the applicant.

(2) *Review by the building official.* Building official approval of a site plan or sketch plan shall be required prior to the establishment, construction, expansion, or structural alteration of any structure or change of use, as follows:

a. Construction, moving, relocating, or structurally altering a single or two-family home, including any customarily incidental accessory structure.

b. Construction of an addition to an existing and conforming building or expansion of an existing, conforming use, subject to the following:

1. No variances to the requirements of this chapter are required.

2. The proposed addition or expansion shall not increase the total square footage of the building or area occupied by the use by more than one thousand (1,000) square feet, provided further that no other expansion has occurred within the past three (3) years.

c. Re-use or re-occupancy of an existing and conforming nonresidential structure or building, subject to the following:

1. The proposed use shall not require additional parking demands, access changes or other substantial modifications and improvements to the existing site or building.

2. The proposed use shall not require special use approval, as set forth in this chapter.

3. No variances to the requirements of this chapter shall be required.

d. Minor changes during construction due to unanticipated site constraints or outside agency requirements, and minor landscaping changes or species substitutions, consistent with an approved site plan, which do not change the intent of the approved site plan.

e. Minor building modifications that do not alter the facade beyond normal repairs, height or floor area of a multiple-family or nonresidential building.

f. For a multiple-family or nonresidential uses, construction of accessory structures or fences or construction of a wall around a waste receptacle, or installation of a fence around a mechanical unit or other similar equipment, subject to the provisions of this chapter.

g. Changes to a site required by the building official to comply with state construction code requirements.

h. Modifications to an approved site deemed minor, in accordance with subsection 36-499(i).

i. Sidewalk or pedestrian pathway construction or relocation, or barrier-free access improvements.

j. Temporary construction buildings and uses not to exceed a forty-eight-hour time period, subject to the requirements of this chapter.

k. Accessory structures and uses specified in section 36-251 (Accessory buildings, structures and uses).

l. Modifications to an approved site plan for a special land use, conditional zoning, or planned development project are not eligible for review by the building official.

m. The building official or applicant shall have the option to request subcommittee or planning commission review of a project that would otherwise eligible for approval by the building official, with all costs associated with such review borne by the applicant.

(Ord. No. H-07-01, § 14.203, 7-24-07)

Sec. 36-494. Application procedure; required information.

(a) *Application procedure, contents.* The following information shall accompany all site plans and sketch plans submitted for all reviews:

(1) An application for site plan review by the planning commission or subcommittee, supplied by the building department, shall be submitted to the building department, along with the required application fee and eight (8) copies of the site plan at the following scales:

a. A scale of not less than one inch equals twenty (20) feet for property less than one (1) acre;

b. One (1) inch equals thirty (30) feet for property larger than one (1) acre but less than three (3) acres; and

c. One (1) inch equals fifty (50) feet for property larger than three (3) acres.

(2) A completed site plan application and site plan materials must be submitted at least twenty-eight (28) days prior to the planning commission or city council meeting at which the review is requested. Upon confirmation from the city planning consultant, and other city consultants, and all other appropriate city officials, including but not limited to police, fire, and public works, that the site plan substantially meets the requirements of this chapter, the applicant shall submit an additional nine (9) copies of the site plan to the building department. The commission may prepare forms and require the use of such forms in site plan preparation. A separate escrow deposit may be required for administrative charges to review the site plan submittal.

(3) Current proof of ownership of the land to be utilized or evidence of a contractual arrangement to acquire such land, such as an option or purchase agreement, and a title search or other evidence of any applicable easements or deed restrictions.

(4) An application for sketch plan approval shall be submitted to the building department on forms supplied by the building department along with the required fee and one (1) copy of the sketch plan. The sketch plan shall contain the information required in subsection 36-496.

(b) *Distribution of plans.*

(1) *Planning commission review.* Upon submission of all required application materials, the site plan proposal shall be distributed, to the city planning consultant and all appropriate city officials, including, but not limited to police, fire, and public works, and other city consultants, as applicable, for review. Determination of compliance with city ordinances and regulation shall be made within fifteen (15) days of receiving an application for site plan review. Site plans determined to be in substantial compliance proceed to final site plan review (subsection 36-497(c)). For site plans determined not to be in substantial compliance, the applicant may be required to complete revisions and re-submit the plans

for further review prior to final action. Upon receipt of the revised site plans, determination of compliance shall be made within fifteen (15) days.

(2) *Subcommittee review.* Upon submission of all required application materials, the site plan proposal may be distributed to the city planning consultant and all appropriate city officials, including, but not limited to police, fire, and public works, and other city consultants, as applicable, for review, at the discretion of the building official or planning commission chair.

(3) *Building official review.* If the building official or applicant requests a review by the subcommittee or planning commission, in accordance with subsection 36-493(b)(2)m, the site plan proposal shall be distributed in accordance with subsection (b)(1).

(Ord. No. H-07-01, § 14.204, 7-24-07)

Sec. 36-495. Required site plan information.

Each site plan submitted for review shall have a sheet size of at least twenty-four (24) inches by thirty-six (36) inches and shall include the following information:

(1) *Descriptive and identification data.*

a. Applicant's name and address, and telephone number.

b. Title block indicating the name of the development.

c. Scale.

d. Northpoint.

e. Dates of submission and revisions (month, day, and year).

f. Location map drawn to scale with northpoint.

g. Legal and common description of property.

h. The dimensions of all lots and property lines, showing the relationship of the site to abutting properties. If the site is a part of a larger parcel, the plan should indicate the boundaries of total land holding.

i. A schedule for completing the project, including the phasing or timing of all proposed developments.

j. Identification and seal of architect, engineer, land surveyor, or landscape architect who prepared plan.

k. Written description of proposed land use.

l. Zoning classification of applicant's parcel and all abutting parcels.

m. Proximity to driveways serving adjacent parcels.

n. Proximity to section corner and major thoroughfares.

o. Notation of any variances which have or must be secured.

p. Net acreage (minus rights-of-way) and total acreage, to the nearest one-tenth (1⁄10) of an acre.

(2) *Site data.*

a. Existing lot lines, building lines, structures, parking areas, and other improvements on the site and within one hundred (100) feet of the site.

b. Front, side, and rear setback dimensions.

c. Topography on the site and within one hundred (100) feet of the site at two-foot contour intervals, referenced to a U.S.G.S. benchmark.

d. Proposed site plan features, including buildings, roadway widths and names, and parking areas.

e. Dimensions and centerlines of existing and proposed roads and road rights-of-way.

f. Acceleration, deceleration, and passing lanes, where required.

g. Proposed location of driveway entrances and on-site driveways.

h. Typical cross-section of proposed roads and driveways.

i. Location of existing drainage courses, floodplains, lakes and streams, with elevations.

j. Location and dimensions of wetland areas. If deemed necessary because of site or soil conditions or because of the scope of the project, a detailed hydrology study may be required.

k. Location of sidewalks within the site and within the right-of-way.

l. Exterior lighting locations and method of shielding lights from shining off the site.

m. Trash receptacle locations and method of screening, if applicable.

n. Transformer pad location and method of screening, if applicable.

o. Parking spaces, typical dimensions of spaces, indication of total number of spaces, drives, and method of surfacing.

p. Information needed to calculate required parking in accordance with zoning ordinance standards.

q. The location of lawns and landscaped areas, including required landscaped greenbelts.

r. Landscape plan, including location, size, type and quantity of proposed shrubs, trees and other live plant material.

s. Location, sizes, and types of existing trees five (5) inches or greater in diameter, measured at one foot off the ground, before and after proposed development.

t. Cross-section of proposed berms.

u. Location and description of all easements for public right-of-way, utilities, access, shared access, and drainage.

v. Designation of fire lanes.

w. Loading/unloading area.

x. The location of any outdoor storage of materials and the manner by which it will be screened.

(3) *Building and structure details.*

a. Location, height, and outside dimensions of all proposed buildings or structures.

b. Indication of the number of stores and number of commercial or office units contained in the building.

c. Building floor plans.

d. Total floor area.

e. Location, size, height, and lighting of all proposed signs.

f. Proposed fences and walls, including typical cross-section and height above the ground on both sides.

g. Building facade elevations, drawn to a scale of one (1) inch equals four (4) feet, or another scale approved by the building official and adequate to determine compliance with the requirements of this article. Elevations of proposed buildings shall indicate type of building materials, roof design, projections, canopies, awnings and overhangs, screen walls and accessory building, and any outdoor or roof-located mechanical equipment, such as air conditioning units, heating units, and transformers, including the method of screening such equipment. Such equipment shall be screened from view of adjacent properties and public rights-of-way. Such screening shall be designed to be perceived as an integral part of the building design.

(4) *Information concerning utilities, drainage, and related issues.*

a. Schematic layout of existing and proposed sanitary sewers and septic systems; water mains, well sites, and water service leads; hydrants that would be used by public safety personnel to service the site; and, the location of gas, electric, and telephone lines.

b. Location of exterior drains, dry wells, catch basins, retention/detention areas, sumps and other facilities designed to collect, store, or transport stormwater or wastewater. The point of discharge for all drains and pipes should be specified on the site plan.

c. Indication of site grading and drainage patterns.

d. The following information shall be submitted as part of an application for permission to commence any type of development within a flood hazard area:

1. The elevation in relation to mean sea level of the floor, including basement, of all structures.

2. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

3. Proof of development permission from appropriate local, state, and federal agencies as required by this zoning code, including a floodplain permit, approval, or letter of no authority from the Michigan Department of Environmental Quality under authority of Act 245 of the Public Acts of 1929, as amended by Act 167 of the Public Acts of 1968, the Flood Plain Regulatory Authority.

4. Base flood elevation data where the proposed development is subject to Act 288 of the Public Acts of 1967, the Subdivision Control Act, or greater than five acres in size.

e. Additional information which may be reasonably necessary to determine compliance with the provisions of this zoning code.

f. Soil erosion and sedimentation control measures.

g. Proposed finish grades on the site, including the finish grades of all buildings, driveways, walkways, and parking lots.

h. Listing of types and quantities of hazardous substances and polluting materials which will be used or stored on-site at the facility in quantities greater than twenty-five (25) gallons per month.

i. Areas to be used for the storage, use, loading/unloading, recycling, or disposal of hazardous substances and polluting materials, including interior and exterior area.

j. Underground storage tanks locations.

k. Delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of site cleanup.

(5) *Information concerning residential development.*

a. The number, type and location of each type of residential unit (one (1) bedroom units, two (2) bedroom units, etc.).

b. Density calculations by type of residential unit (dwelling units per acre).

c. Lot coverage calculations.

d. Floor plans of typical buildings with square feet of floor area.

e. Garage and carport locations and details, if proposed.

f. Pedestrian circulation system.

g. Location and names of roads and internal drives with an indication of how the proposed circulation system will connect with the existing adjacent roads. The plan should indicate whether proposed roads are intended to be private or dedicated to the public.

h. Community building location, dimensions, floor plans, and facade elevations, if applicable.

i. Swimming pool fencing detail, including height and type of fence, if applicable.

j. Location and size of recreation open areas.

k. Indication of type of recreation facilities proposed for recreation area.

(6) *Information applicable to mobile home parks.*

a. Location and number of pads for mobile homes.

b. Distance between mobile homes.

c. Proposed placement of mobile home on each lot.

d. Average and range of size of mobile home lots.

e. Density calculations (dwelling units per acre).

f. Lot coverage calculations.

g. Garage and carport locations and details, if proposed.

h. Pedestrian circulation system.

i. Location and names of roads and internal drives.

j. Community building location, dimensions, floor plans, and facade elevations, if applicable.

k. Swimming pool fencing detail, including height and type of fence, if applicable.

l. Location and size of recreation open areas.

m. Indication of type of recreation facilities proposed for recreation area.

(7) *Additional information.* Information related to condominium development. The following information shall be provided with all site plans including condominium development:

a. Condominium documents, including the proposed master deed, restrictive covenants, and condominium bylaws.

b. Condominium subdivision plan requirements, as specified in Section 66 of Public Act 59 of 1978, as amended, and Rule 401 of the Condominium Rules promulgated by the Michigan Department of Commerce, Corporation and Securities Bureau.

(8) *Items not applicable.* If any of the items listed are not applicable to a particular site, the following information should be provided on the site plan:

a. A list of each item considered not applicable.

b. The reason(s) why each listed item is not considered applicable.

(9) *Other data which may be required.* Other data may be required if deemed necessary by the city administrative officials, planning commission, or city council to determine compliance with the provisions in this article. Such information may include traffic studies, market analysis, environmental assessment and evaluation of the demand on public facilities and services.

(10) *Industrial site plan requirements.* Site plan proposals for new or expanded industrial development shall comply with the site plan requirements in article XIV, division 2, including the requirements in section [36-342] regarding an industrial activity statement.

(11) *Transportation impact studies.*

a. Developments requiring a transportation impact study (TIS).

1. A TIS shall be required prior to approval of any of the following types of projects:

(i) Fast-food restaurants, businesses that have drive-up or drive-through service, including banks, pharmacies and other similar vehicle oriented uses.

(ii) Residential projects containing one hundred (100) or more dwelling units in the total project.

(iii) Commercial, office, industrial, warehouse, institutional, entertainment, and mixed-use development proposals involving one hundred thousand (100,000) square feet or more in gross floor area.

2. On multi-phase projects, a TIS shall be required if the entire project exceeds the threshold levels cited above, even if one (1) or more phases of the project do not meet the threshold levels.

3. The planning commission may require a TIS for a proposed development even though it does not meet the criteria listed above where there is evidence that the traffic that would be generated by the development would cause or aggravate unsafe traffic conditions. In making this determination, the planning commission may consider the design of proposed roads, driveways, and parking lots as well as conditions that exist on or around the site that may contribute to traffic safety concerns.

b. *Qualifications of person preparing the TIS.*

1. The TIS shall be prepared by a traffic or transportation engineer or community planner selected by the city and who has a minimum of three (3) years of experience preparing traffic impact studies. The resume and qualifications of the person who prepared the TIS shall be included in the study.

2. The full cost of the TIS shall be paid for by the applicant. The city may require funds to be placed in escrow to cover such costs prior to initiation of the TIS.

c. *Contents of the TIS.* The TIS shall contain the following elements, at minimum:

1. *Description of project.* A description of the project and site plan shall be provided, showing the location of buildings, driveways, parking, adjoining roads, nearby intersections, and driveways on adjacent parcels. The project description should identify the proposed use, the gross and net square footage, and the number of parking spaces proposed.

2. *Existing conditions.*

    (i) Maps and narrative shall be used to identify all roads within the impact area of the project, the number of lanes and right-of-way of each road, the most recent a.m. and p.m. peak hour traffic counts, and average daily traffic (ADT) counts on each road as are available from the Wayne County Road Commission.

    (ii) The historical growth rate of traffic on adjacent roads shall be determined by examining traffic counts over the past three (3) to five (5) years. The growth rate shall be used to project background growth for the next five (5) years of for the number of years to complete the proposed project, whichever is longer. Where information is available from the city planning consultant, trips from proposed projects in the impact area shall be included in the background growth projections.

    (iii) Where existing traffic counts are more than three (3) years old, new counts shall be taken. Traffic counts shall be taken during average or higher than average volume conditions, generally on a Tuesday, Wednesday or Thursday of a non-holiday week. For commercial development, additional Saturday counts shall also be taken.

    (iv) The description of existing conditions shall also include accident history within five hundred (500) feet of the site and for any intersection that is expected to experience a traffic volume increase of at least five (5) percent per twenty-four-hour period or during peak hour due to the proposed project.

3. *Projections.*

    (i) Maps and narrative shall be used to estimate the impact of the proposed project on traffic. Morning and evening peak hour and average daily traffic shall be forecast for the proposed development, based on the data and procedures outlined in the most recent edition of the Institute of Traffic Engineers Trip Generation Manual. The preparer may use other commonly-accepted sources of data or supplement the ITE data with empirical data from similar projects in Michigan.

    (ii) The directional distribution of the projected traffic shall be distributed onto the existing road network (inbound versus outbound, left turn versus right turn) to project turning movements at major site access points, intersections, and interchange ramps. The rationale for the directional distribution shall be provided.

d. *Analysis of data.* The TIS shall contain the following analysis, at minimum:

1. *Capacity analysis.* The impact of the projected traffic on the capacity of roads serving the proposed development shall be analyzed, using procedures outlined in the most recent edition of the Highway Capacity Manual published by the transportation research board. Pre- and post-construction capacity analysis shall also be performed at all street intersections and expressway ramps where the expected traffic will comprise five (5) percent or more of the existing intersection capacity.

2. *Gap analysis.* A "gap study" shall be completed to analyze the frequency and duration of gaps in the flow of through traffic.

3. *Access analysis.* Maps and narrative shall be used to:

    i. Identify the location and design of proposed access driveways and new road intersections,

    ii. Identify sight distance limitations,

    iii. Determine the distance to adjacent driveways and intersections, and

    iv. Provide sufficient evidence that the design and number of driveways proposed is the fewest necessary, that the driveways will provide safe and efficient movement of traffic, and that all driveways comply with the sight distance requirements of the Wayne County Road Commission.

e. *Mitigation measures.* The TIS shall identify realistic public and private mitigation measures needed to accommodate the projected traffic including the following, at minimum:

1. The TIS shall identify improvements to intersections and roads to accommodate future volumes and provided adequate capacity.

2. Using Wayne County Road Commission standards, the TIS shall identify taper lanes, turn lanes, and passing lanes necessary to provide safe and adequate ingress and egress to the site.

3. The TIS shall identify opportunities to accommodate bicyclists and pedestrians.

4. The TIS shall identify opportunities to coordinate development and access with adjoining sites so as to alleviate the impact of increased traffic on public roads.

(Ord. No. H-07-01, § 14.205, 7-24-07)

Sec. 36-496. Required sketch plan information.

Sketch plan requirements for administrative approval. The sketch plan for administrative approval shall contain the following information:

(1) Name, address, telephone and fax number(s), and email address(es) of the applicant(s) (and property owner, if different from applicant) and firm or individual preparing the plan.

(2) The property location (address, lot number, tax identification number).

(3) Sketch plan shall be drawn to an engineer's scale.

(4) Size and dimensions of proposed structures, including gross and usable floor areas, number of stories, and overall height.

(5) Dimensions of all property lines, showing the relationship of the site to abutting properties. If the site is part of a larger parcel, the plan should indicate the boundaries of total land holding.

(6) Existing site features, including natural and historical features, structures, driveways, fences, walls, signs, and other improvements.

(7) Location, dimensions, setback distances, and use(s) of all proposed improvements.

(8) Location and description of all existing and proposed easements and rights-of-way for utilities, access, and drainage.

(9) Location of existing public or private utilities including, but not limited to water, and sanitary and stormwater sewers.

(10) Other information as requested by the reviewer to verify that the site and use are in accordance with the purpose and intent of this chapter and the city's master plan.

(Ord. No. H-07-01, § 14.206, 7-24-07)

Sec. 36-497. Plan review procedure and authorization.

(a) *Pre-application meeting.* In order to facilitate processing of a site plan in a timely manner, the city provides opportunities for potential applicants to meet with and discuss development/redevelopment proposals with city officials, staff, and consultants for the purpose of obtaining information and guidance in the preparation of the required site plan and application materials. No formal action shall be taken on a site plan submitted for pre-application meetings. The following two (2) options are available depending upon the type of proposal being considered:

(1) *Optional.* The applicant may request a pre-application site plan meeting with the city planning consultant and building official, and the city engineering consultant, as may be applicable. The applicant need not present drawings or site plans at a pre-application conference, but even if drawings or site plans are presented, no formal action shall be taken on a site plan at a pre-application conference. The city planning consultant's and city engineering consultant's fees for any such pre-application conference shall be paid by the applicant. Optional pre-application meeting request shall be handled as follows:

a. A request for a pre-application meeting shall be made in writing to the building department, and a fee deposited with the building department to cover the cost of the consultants' time.

b. The building department shall distribute a copy of the written request to the planning consultant and the engineering consultant, in the event the engineering consultant's attendance is required.

c. The planning consultant and building official shall coordinate the scheduling of the meeting.

(2) *Mandatory.* A pre-application meeting is required for all proposed developments within the tax increment financing authority (TIFA) district by the director of the TIFA or its designated representative, the city planning consultant, building official, and other relevant city staff, and city engineer, as applicable. The applicant need not present drawings or site plans at a pre-application conference, but even if drawings or site plans are presented, no formal action shall be taken on a site plan at a pre-application conference. The city planning consultant's and city engineering consultant's fees for any such pre-application conference shall be paid by the applicant. Mandatory pre-application meeting requests shall be handled as follows:

a. A request for a pre-application meeting shall be made in writing to the building department, and a fee deposited with the building department to cover the cost of the consultants' time.

b. The building department shall distribute a copy of the written request to the planning consultant and engineering consultant, in the event the engineering consultant's attendance is required.

c. The planning consultant and building official shall coordinate the scheduling of the meeting.

(b) *Conceptual review.*

(1) An applicant may file a written request for conceptual review of a preliminary site plan by the planning commission, prior to submission of a site plan for formal (final) review. Conceptual site plan review is required for all planned unit development and conditional rezoning projects.

(2) Conceptual review fees shall be paid by the applicant, according to a fee schedule established by the city council.

(3) No formal action shall be taken on a site plan submitted for conceptual review, and neither the applicant nor the planning commission shall be bound by any comments or suggestions made during the course of the conceptual review.

(4) A site plan submitted for conceptual review shall be drawn to scale, and shall show site development features in sufficient detail to permit the planning commission to evaluate the following:

a. Relationship of the site to nearby properties;

b. Density;

c. Adequacy of landscaping, open space, vehicular drives, parking areas, drainage, and proposed utilities; and,

d. Conformance with city's development policies and standards.

(c) *Final site plan review.* Upon determination of the building department director or his designee that the site plans substantially complies with city ordinances and regulations, the site plans shall be placed on the next available planning commission agenda. All required revisions must be completed prior to the site plan being placed on the planning commission agenda for review.

(d) *Public hearings.* A public hearing conducted by the planning commission is required for all zoning amendments, and for all site plans involving uses that are subject to special land use approval, applications for conditional rezoning and planned unit developments, subject to the provisions of section 36-481. After payment of appropriate fees, the building official, or his designee shall set the date of the public hearing.

(e) *Authorization.* The planning commission, or when applicable, the subcommittee or building official or city planning consultant shall review the site plan proposal together with any public hearing findings and any requested reports and recommendations from the building official, city planning consultant, and/or other city staff and reviewing agencies, as applicable.

(1) The planning commission or the subcommittee or building official (as per section 36-493) is authorized to take the following action on the plan, subject to guidelines in the zoning ordinance: approval, approval with conditions, denial, or table the site plan, as follows:

a. *Approval.* Upon determination that a site plan is in compliance with the standards and requirements of this chapter and other applicable ordinances and laws, approval shall be granted.

b. *Approval subject to conditions.* Upon determination that a site plan is in compliance except for minor modifications, the conditions for approval shall be identified and the applicant shall be given the opportunity to correct the site plan. The conditions may include the need to obtain variances or obtain approvals from other agencies. If a plan is approved subject to conditions, the applicant shall submit four (4) copies of a revised plan with a revision date, indicating compliance with the conditions of approval, to the building department. Upon subsequent review and approval of the building official or city planning consultant, the plans shall be recorded, as provided in subsection (f), below.

c. *Denial.* Upon determination that a site plan does not comply with the standards and regulations set forth in this article or elsewhere in this chapter, or requires extensive revision in order to comply with said standards and regulations, site plan approval shall be denied.

d. *Tabling.* Upon determination that a site plan is not ready for approval or rejection, or upon a request by the applicant, the planning commission may table consideration of a site plan until a future meeting.

(f) *Recording of site plan review action.* Each action taken with reference to a site plan review shall be duly recorded in the minutes of the planning commission, as appropriate. The grounds for action taken upon each site plan shall also be recorded in the minutes.

(1) After the planning commission or the subcommittee (as per section 36-493) has taken final action on a site plan and all steps have been completed, four (4) copies of the application and approved plans shall be stamped "approved" and signed by the building official or city planning consultant. One (1) marked copy will be kept on file with the building department, one (1) will be kept by the city planning consultant, and the other two (2) copies will be returned to the applicant, where one stamped approved plan will be submitted with the detailed engineering/construction plans.

(2) The building official shall be responsible for final stamp approval for administrative reviews conducted per subsection 36-493(b)(2).

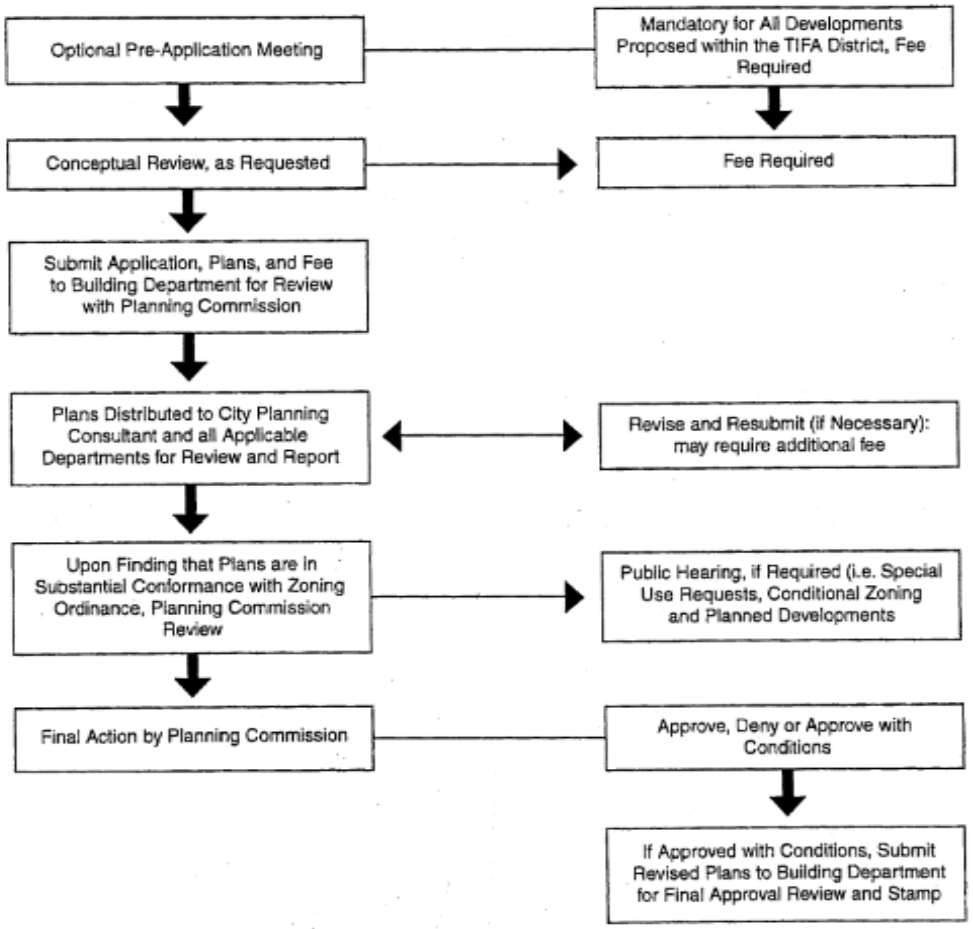
(3) If the planning commission grants conditional approval of the site plan, the applicant shall submit four (4) copies of the revised plans, indicating compliance with the conditions of approval, to the building department. Distribution of the revised plans shall be in accordance with subsection 36-494(b).

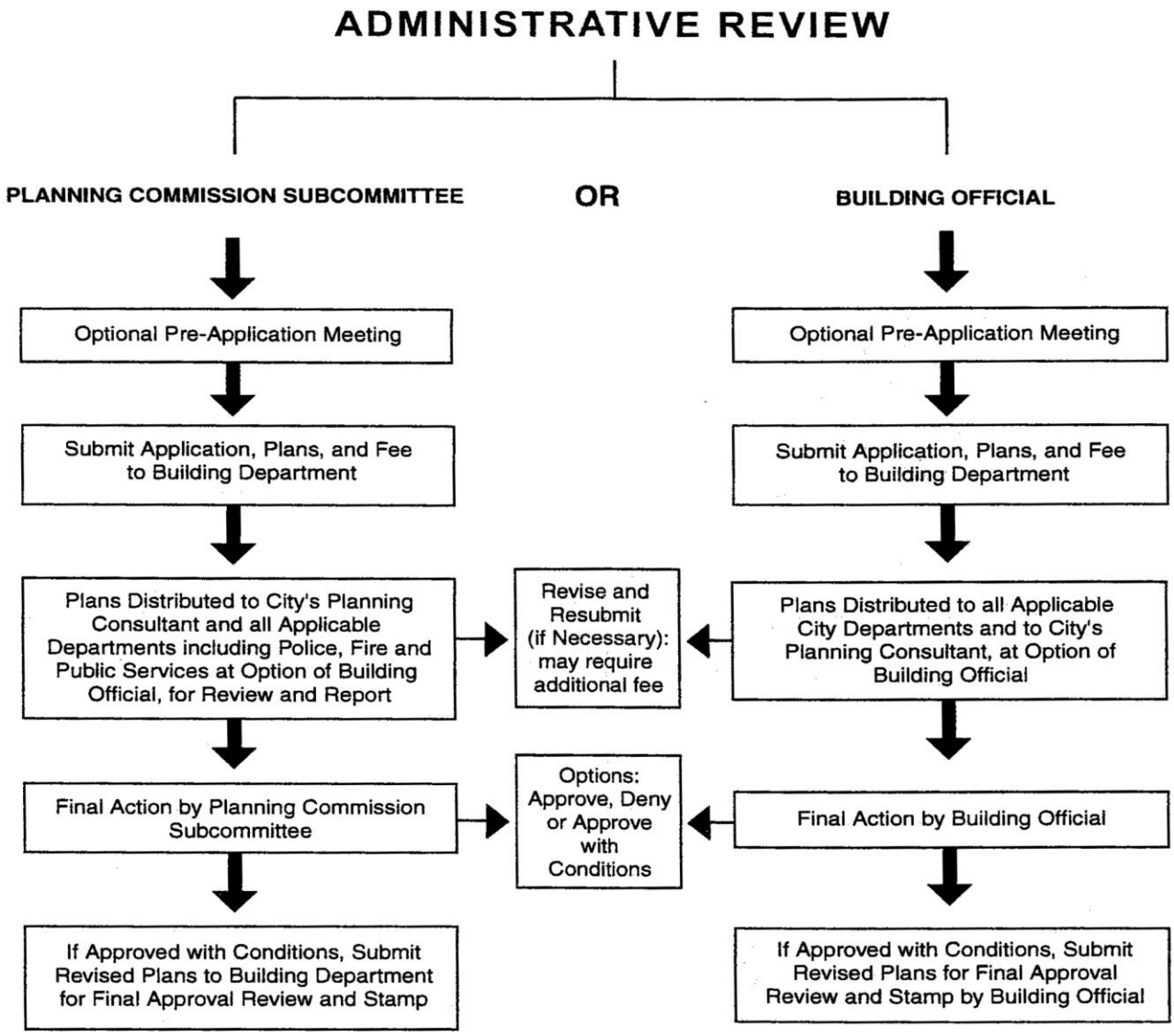
Upon subsequent review and verification that all conditions of approval have been met, the planning consultant shall stamp all four (4) copies of the plans "approved," and the plans shall be distributed in accordance with subsection (f)(1) (Recording of site plan action).

(4) Once the site plan has been stamped "approved," it shall be a consent agenda item at the next planning commission meeting.

(Ord. No. H-07-01, § 14.207, 7-24-07; Ord. No. H-16-01, §§ 1D, 1E, 10-11-16)

PLANNING COMMISSION REVIEW





Sec. 36-498. Procedure after site plan approval.

(a) *Detailed engineering (construction) plan review.* Following final approval of the site plan, six (6) sets of detailed engineering (construction) plans shall be submitted to the building department. The building department shall distribute the detailed engineering (construction) plans to the city's engineering consultant and relevant city departments for review. The city's engineering consultant shall verify that the site design and improvements shown on the construction or engineering plans are consistent with the approved site plan, except for changes that do not materially alter the approved site design, or that address any conditions of site plan approval.

Construction or engineering plans that are not consistent with the approved site plan shall be subject to review and approval by the planning commission as an amended site plan, prior to the start of development or construction on the site.

(b) *Application for building permit.* Following final approval of the site plan and the engineering plans, the applicant may apply for a building permit. It shall be the responsibility of the applicant to obtain all other applicable city, county, or state permits prior to issuance of a building permit.

A building permit for a structure in a proposed condominium project shall not be issued until evidence of a recorded master deed has been provided to the city, in accordance with article VIII, division 4. However, the building official may issue permits for site grading, erosion control, installation of public water and sewage facilities, and construction of roads, prior to recording the master deed. No permit issued or work undertaken prior to recording of the master deed pursuant to this section shall grant any rights or any expectancy interest in the approval of the master deed.

(c) *Performance guarantee.* Performance guarantees shall be required subject to the standards in article VIII, division 6.

(d) *Expiration of site plan approval.* If construction has not commenced within twelve (12) months of final approval of the site plan, or if construction has not been completed within twelve (12) months after it was commenced or if substantial or continual progress in construction has not been made, the site plan approval becomes null and void and a new application for site plan review shall be required. Upon written request from the applicant, the building official or planning consultant, as designated by the building official, may grant an extension of up to twelve (12) months, upon a finding that the approved site plan adequately represents current conditions on and surrounding the site and provided that the site plan conforms to the current zoning ordinance standards, and further provided that construction has not commenced or if substantial or continual progress in construction has not been made.

(e) *Application for certificate of occupancy.* Following completion of site work and building construction, the applicant may apply for a certificate of occupancy or a temporary certificate of occupancy from the building superintendent. It shall be the applicant's responsibility to obtain these required certificates prior to any occupancy of the property.

(f) *Property maintenance after approval.* It shall be the responsibility of the owner of a property for which site plan approval has been granted to maintain the property in accordance with the approved site design on a continuing basis until the property is razed, or until new zoning regulations supersede the regulations upon which site plan approval was based, or until a new site design is approved. Any property owner who fails to so maintain an approved site design shall be deemed in violation of the use provisions of this chapter and shall be subject to the same penalties appropriate for a use violation.

With respect to condominium projects, the master deed shall contain provisions describing the responsibilities of the condominium association, condominium owners, and public entities, with regard to maintenance of the property in accordance with the approved site plan on a continuing basis. The master deed shall further establish the means of permanent financing for required maintenance and improvement activities which are the responsibility of the condominium association. Failure to maintain an approved site plan shall be deemed in violation of the use provisions of this chapter and shall be subject to the same penalties appropriate for a use violation.

(g) *Recorded and as-built condominium documents submittal requirements.*

(1) Prior to the issuance of a building permit for a condominium project involving new construction, the condominium project developer or proprietor shall record all condominium documents and exhibits with the Wayne County Register of Deeds office in a manner and format acceptable to the county and furnish the city with one copy of the recorded condominium master deed, bylaws, and all restrictive covenants as approved by the planning commission, city attorney and planning and engineering consultants;

(2) Upon completion of the project, the condominium project developer or proprietor shall furnish the city with the following:

a. Two (2) copies of an "as built survey", sealed by a licensed professional engineer, landscape architect or similar certified professional, in a format acceptable to the city; and

b. One (1) copy of the site plan on a mylar sheet of at least thirteen (13) by sixteen (16) inches with an image not to exceed ten and one-half (10½) by fourteen (14) inches.

(3) The as-built survey shall be reviewed by the city's engineering consultant for compliance with city ordinances. Fees for this review shall be established by the city council.

(4) The building official may withhold building permit approval for any structure within the condominium project, if such documents have not been submitted within ten (10) days after written request from the building official to do so.

(h) *Revocation.* Approval of a site plan may be revoked by the planning commission or subcommittee or building official if construction is not in conformance with the approved plans. In this case, the site plan shall be placed on the agenda of the planning commission or scheduled for review by the subcommittee for consideration and written notice shall be sent to the applicant at least ten (10) days prior to the meeting. The city planning consultant, building official, applicant, and any other interested persons shall be given the opportunity to present information to the planning commission and subcommittee and answer questions. If the planning commission or subcommittee or building official finds that a violation exists and has not been remedied prior to the hearing, then it shall revoke the approval of the site plan.

(i) *Modification to approved plan.* A site plan approved in accordance with the provisions in this section may be subsequently modified, subject to the following requirements:

(1) *Review of minor modifications.* Minor modifications to an approved site plan may be reviewed by the building official or his designee.

a. *Minor modification defined.* Minor modifications are changes that do not substantially affect the character or intensity of the use, vehicular or pedestrian circulation, drainage patterns, the demand for public services, or the vulnerability to hazards. Examples of minor modifications include:

1. An addition to an existing commercial or industrial building that does not increase the floor space by more than one thousand (1,000) square feet.

2. Re-occupancy of a vacant building that has been unoccupied for less than twelve (12) months.

3. Changes to building height that do not add an additional floor.

4. Reduction in the square footage of an existing or proposed building.

5. Additions or alterations to the landscape plan or landscape materials that do not result in the waiver of landscaping requirements.

6. Relocation or screening of the trash receptacle.

7. Alterations to the internal parking layout of an off-street lot.

8. The construction of a new building or structure, adding or deleting parking or the addition of curb cuts onto a public road are examples of modifications, which are not considered minor.

9. Modifications to an approved site plan for a special land use, conditional zoning, or planned development project or which require a variance, shall not be considered a minor modification.

b. *Determination of minor modification.* The building official or his designee shall determine if the proposed modifications are minor in accordance with the guidelines in this section.

(2) *Modifications not deemed "minor".* If the modifications are not deemed minor by the building official or his designee, then review and approval of the subcommittee or the planning commission shall be required, as determined by the building official or his designee. A review by the planning commission shall be required for all site plans that involve a request for a variance, a special land use, conditional rezoning, and planned development proposals that involves a discretionary decision, or a proposal that involves a nonconforming use or structure.

(j) *Recording of action.* Each action related to modification of a site plan shall be duly recorded in writing on a copy of the approved plan, and shall be kept on file in the office of the building official. The planning commission shall be advised of all minor site plan modifications approved by the building official and such modifications shall be noted on the site plan and in the minutes of the planning commission.

(k) *Fees.* Fees for the review of site plans and inspections as required by this article shall be established and may be amended by resolution by the city council.

(Ord. No. H-07-01, § 14.208, 7-24-07)

Sec. 36-499. Standards for site/sketch plan approval.

All elements of the site plan shall be designed to take into account the site's topography, the size and type of plot, the character of adjoining property, and the traffic operations of adjacent streets. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this zoning code.

In order that buildings, open space and landscaping will be in harmony with other structures and improvements in the area, and to ensure that no undesirable health, safety, noise and traffic conditions will result from the development shall conform to all requirements of this zoning code, including those of the applicable zoning district(s). The following criteria shall be used as a basis upon which site plans will be reviewed and approved, where applicable:

(1) *Adequacy of information.* The site plan shall include all required information in sufficiently complete and understandable form to provide an accurate description of the proposed uses and structures.

(2) *Site design characteristics.* All elements of the site design shall be harmoniously and efficiently organized in relation to topography, the size and type of parcel, the character of adjoining property, and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted by this chapter.

(3) *Appearance.* Landscaping, earth berms, fencing, signs, walls, and other site features shall be designed and located on the site so that the proposed development is aesthetically pleasing and harmonious with nearby existing or future developments.

(4) *Compliance with district requirements.* The site plan shall comply with the district requirements for minimum floor space, height of building, lot size, open space, density and all other requirements set forth in article V, Schedule of Regulations, except as provided elsewhere in this chapter. New and conversion condominium projects shall conform to the provisions of this chapter, as applicable, and with article VIII, division 4, Condominium Regulations.

(5) *Preservation of significant natural features.* Judicious effort shall be used to preserve the integrity of the land, existing topography, and natural, historical, and architectural features as defined in this zoning code, in particular flood hazard areas and wetlands designated/regulated by the Michigan

Department of Environmental Quality, and, to a lesser extent, flood hazard areas and wetlands which are not regulated by the department.

(6) *Emergency access.* All buildings or groups of buildings shall be so arranged as to permit convenient and direct emergency vehicle access.

(7) *Pedestrian access and circulation.* Existing and proposed sidewalks or pedestrian pathways connect to existing public sidewalks and pathways in the area, are insulated as completely as possible from the vehicular circulation system, and comply with applicable regulations regarding barrier-free access.

(8) *Vehicular access and circulation.* Drives, streets, parking, site access, and other vehicle-related elements are designed to minimize traffic conflicts on adjacent streets and promote safe and efficient traffic circulation within the site.

(9) *Building design and architecture.* Building design and architecture relate to and are harmonious with the surrounding neighborhood with regard to scale, mass, proportion, and materials. In addition to following design guidelines adopted in specific district or sub-area plans, where applicable.

(10) *Parking and loading.* Off-street parking lots and loading areas are arranged and located to accommodate the intensity of proposed uses, minimize conflicts with adjacent uses, and promote shared-use of common facilities where feasible.

(11) *Exterior lighting.* Exterior lighting shall be designed so that it is deflected away from adjoining properties and so that it does not impede vision of drivers along streets.

(12) *Screening.* Landscaping and screening are provided in a manner that adequately buffers adjacent land uses and screens off-street parking, mechanical appurtenances, loading and unloading areas, and storage areas from adjacent residential areas and public rights-of-way.

(13) *Public services.* Adequate services, including police and fire protection, and utilities, including water, sewage disposal, sanitary sewer, and stormwater controls services, shall be available or provided, and shall be designed with sufficient capacity and durability to properly serve the development.

(14) *Soil erosion and sedimentation control.* The site shall have adequate lateral support so as to ensure that there will be no erosion of soil or other material. The final determination as to adequacy of, or need for, lateral support shall be made by the city engineer and building official.

(15) *Stormwater management.* Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate stormwater which complements the natural drainage patterns and wetlands, prevent erosion and the formation of dust. Sharing of stormwater facilities with adjacent properties shall be encouraged. The use of detention/retention ponds may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create standing water.

(16) *Privacy.* The site design shall provide reasonable visual and sound privacy. Fences, walls, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and the safety and privacy of occupants and users.

(17) *Danger from hazards.* The level of vulnerability to injury or loss from incidents involving hazardous materials or processes shall not exceed the capability of the city to respond to such hazardous incidents so as to prevent injury and loss of life and property. In making such an evaluation, the city shall consider the location, type, characteristics, quantities, and use of hazardous materials or processes in relation to the personnel, training, equipment and material, and emergency response plans and capabilities of the city.

(18) *Health and safety concerns.* Any use in any zoning district shall comply with federal, state, county and local health and pollution laws and regulations with respect to noise; dust, smoke and other air pollutants; vibration; glare and hear; fire and explosive hazards; gases; electromagnetic radiation; and, toxic and hazardous materials.

(19) *Sequence of development.* All development phases shall be designed in logical sequence to insure that each phase will independently function in a safe, convenient and efficient manner without being dependent upon subsequent improvements in a later phase or on other sites.

(20) *Coordination with adjacent sites.* All site features, including circulation, parking, building orientation, landscaping, lighting, utilities, and common facilities, and open space shall be coordinated with adjacent properties.

(21) *Other agency reviews.* The applicant has provided documentation of compliance with other appropriate agency review standards, including, but not limited to, the Michigan Department of Natural Resources, Michigan Department of Environmental Quality, Michigan Department of Transportation, Wayne County Drain Commission, Wayne County Health Department, and other federal and state agencies, as applicable.

(Ord. No. H-07-01, § 14.209, 7-24-07)

Secs. 36-500—36-510. Reserved.

DIVISION 3. SPECIAL APPROVAL USES

Sec. 36-511. Intent.

The procedures and standards in this section are intended to provide a consistent and uniform method for review of proposed plans for special land uses. Special land uses are uses, either public or private, which possess unique characteristics and therefore cannot be properly classified as a permitted use in a particular zoning district (see article II, Definitions). This section contains standards for review of each special land use proposal individually on its own merits to determine if it is an appropriate use for the district and specific location where it is proposed.

(Ord. No. H-07-01, § 14.131, 7-24-07)

Sec. 36-512. Procedures and requirements.

Special land use proposals shall be reviewed in accordance with the procedures in article XIV, division 2 for site plan review, except as follows:

(1) *Public hearing.* The planning commission or building department shall schedule a public hearing in accordance with section 36-481.

(2) *Planning commission final action.* The planning commission shall review the application for special land use, together with the public hearing findings and reports and recommendations from the building official, city planner, and/or other city staff and reviewing agencies, as applicable. The planning commission shall base its decision solely on the requirements and standards of this chapter. The planning commission is authorized to approve, approve with conditions, or deny a special land use proposal as follows:

a. *Approval.* Upon determination that a special land use proposal is in compliance with the standards and requirements of this chapter and other applicable ordinances and laws, approval shall be granted.

b. *Approval with conditions.* The planning commission may impose reasonable conditions with the approval of a special land use. The conditions may include provisions necessary to insure that public services and facilities affected by a proposed special land use or activity will be capable of accommodating increased service and facility loads generated by the new development, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:

1. Conditions shall be designed to protect natural resources, the health, safety, welfare, and social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

2. Conditions shall be related to the valid exercise of the police power, and purposes which are affected by the proposed use of activity.

3. Conditions shall be necessary to meet the intent and purpose of the zoning ordinance, related to the standards established in the chapter for the land use or activity under consideration, and necessary to insure compliance with those standards.

(3) *Denial.* Conditions shall be necessary to meet the intent and purpose of the zoning ordinance, related to the standards established in the chapter for the land use or activity under consideration, and necessary to insure compliance with those standards.

(Ord. No. H-07-01, § 14.302, 7-24-07)

Sec. 36-513. Standards for granting special land use approval.

Approval of a special land use proposal shall be based on the determination that the proposed use will comply with all applicable requirements of this chapter, including site plan review criteria set forth in article XIV, division 2, applicable site development standards for specific uses set forth in this chapter, and the following standards:

(1) *Compatibility with adjacent uses.* The proposed special land use shall be designed, constructed, operated and maintained to be compatible with uses on surrounding land. The site design of the proposed special land use shall minimize the impact of site activity on surrounding properties. In determining whether this requirement has been met, consideration shall be given to:

a. The location and screening of vehicular circulation and parking areas in relation to surrounding development.

b. The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.

c. The hours of operation of the proposed use. Approval of a special land use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.

d. The bulk, placement, and materials of construction of the proposed use in relation to surrounding uses.

e. Proposed landscaping and other site amenities. Additional landscaping over and above the requirements of this chapter may be required as a condition of approval of a special land use.

(2) *Compatibility with the master plan.* The proposed special land use shall be consistent with the general principles and objectives of the city's master plan and shall promote the intent and purpose of this chapter.

(3) *Public services.* The proposed special land use shall be located so as to be adequately served by essential public facilities and services, such as highways, streets, police and fire protection, drainage systems, water and sewage facilities, and schools, unless the proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the special land use is established.

(4) *Impact of traffic.* The location of the proposed special land use within the zoning district shall minimize the impact of the traffic generated by the proposed use. In determining whether this requirement has been met, consideration shall be given to the following:

a. Proximity and access to major thoroughfares.

b. Estimated traffic generated by the proposed use.

c. Proximity and relation to intersections.

d. Adequacy of driver sight distances.

e. Location of and access to off-street parking.

f. Required vehicular turning movements.

g. Provisions for pedestrian traffic.

(5) *Detrimental effects.* The proposed special land use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be located or designed so as to be detrimental or hazardous to public health, safety, and welfare. In determining whether this requirement has been met, consideration shall be given to the level of traffic, noise, vibration, smoke, fumes, odors, dust, glare, and light, subject to the standards in article VIII.

(6) *Isolation of existing uses.* The location of the proposed special land use shall not result in a small residential area being substantially surrounding by nonresidential development, and further, the location of the proposed special land use shall not result in a small nonresidential area being substantially surrounded by incompatible uses.

(7) *Based on need.* The planning commission shall find that a need for the proposed use exists in the community at the time the special land use application is considered.

(8) *Economic well-being of the community.* The proposed special land use shall not be detrimental to the economic well-being of those who will use the land, residents, businesses, landowners, and the community as a whole.

(9) *Compatibility with natural environment.* The proposed special land use shall be compatible with the natural environment and conserve natural resources and energy.

(Ord. No. H-07-01, § 14.303, 7-24-07)

Secs. 36-514—36-520. Reserved.

DIVISION 4. AMENDMENTS

Sec. 36-521. Initiation of amendment.

The city council may amend, supplement, or change the district boundaries or the regulations herein, pursuant to the authority and procedures set forth in Michigan Pubic Act 110 of 2006, as amended. Text amendments may be proposed by any governmental body or any interested person or organization. Changes in district boundaries may be proposed by any governmental body, any person having a freehold interest in the subject property, or by the designated agent of a person having a freehold interest in the property.

(Ord. No. H-07-01, § 14.401, 7-24-07)

Sec. 36-522. Application for amendment.

A petition for an amendment to the text of this chapter or an amendment to change the zoning classification of a particular property, shall be commenced by filing a petition with the building department, on the forms provided by the building department and accompanied by the fees specified. The petition shall describe the proposed amendment and shall be signed by the applicant and property owner if different from the applicant.

Petitions for rezoning of a specific site shall be accompanied by a plot plan or survey, which shall contain the following information:

(1) Applicant's name, address, and telephone number.

(2) Scale, northpoint, and dates of submission and revisions.

(3) Zoning classification of petitioner's parcel and all abutting parcels.

(4) Existing lot lines, building lines, structures, parking areas, driveways, and other improvements on the site and within fifty (50) feet of the site.

(5) Proposed lot lines and lot dimensions, and general layout of proposed structures, parking areas, driveways, and other improvements on the site.

(6) Dimensions, centerlines, and right-of-way widths of all abutting streets and alleys.

(7) Location of existing drainage courses, floodplains, lakes and streams, and woodlots.

(8) All existing and proposed easements.

(9) Location of sanitary sewer or septic systems, existing and proposed.

(10) Location and size of watermains, well sites, and building service, existing and proposed.

(11) A sign location plot plan, in accordance with the rezoning sign requirements contained in this article.

(Ord. No. H-07-01, § 14.402, 7-24-07)

Sec. 36-523. Review procedures.

(a) *Planning commission review.* After the completed petition and all required supporting materials have been received and fees paid, the petition shall be reviewed in accordance with the following procedures:

(1) The petition shall be placed on the agenda of the next regularly scheduled meeting of the planning commission. The planning commission shall review the petition for amendment in accordance with the procedures and public hearing and notice requirements set forth in section 36-481, Public hearing process, and other applicable sections of Michigan Public Act 184 of 1943, as amended.

If an individual property or several adjacent properties are proposed for rezoning, the planning commission shall comply with the public notice and public hearing procedures set forth in section 36-481, Public hearing process.

(b) *Rezoning sign requirements.*

(1) At least twenty-one (21) days prior to the public hearing before the planning commission, the applicant must, at his own expense, install rezoning signage on the property proposed for rezoning, in full public view along street or road frontages. The sign must be located along the property line of the right-of-way at the midpoint of the property width. A corner lot will require a sign for each road frontage. The location and content of the signage must be approved by the building department prior to installation. The signage must meet the following specifications:

a. Black letters on white background.

b. Size: Minimum four (4) feet (vertical) by minimum six (6) feet (horizontal).

c. Sign facing must be exterior plywood, aluminum, or similar material.

d. Wording on the signage shall be as follows:

ZONING CHANGE PROPOSED	(minimum 8" high letters)
Present Zoning: ( )	(minimum 3" high letters)
Proposed Zoning: ( )	(minimum 3" high letters)
Size of Parcel: (Acres)	(minimum 3" high letters)
A public hearing has been scheduled.	(minimum 4" high letters)
For more information call:	(minimum 4" high letters)
Dearborn Heights Building and Engineering Department	(minimum 4" high letters)
(Building Department Telephone #)	(minimum 4" high letters)

e. Sign support system must be structurally sound.

(2) Rezoning signage must be removed within seven (7) days of adoption by the city council, seven (7) days of withdrawal of the rezoning application by the applicant, or seven (7) days of denial of the rezoning request by the city council. Failure to remove signage within this period may require the removal of the signage by the city at the owner's expense and/or prosecution.

(c) *Review considerations.* The planning commission and city council, shall at a minimum, consider the following before taking action on any proposed amendment:

(1) Will the proposed amendment be in accordance with the basic intent and purpose of the zoning ordinance?

(2) Will the proposed amendment further the comprehensive planning goals of the city?

(3) Have conditions changed since the zoning ordinance was adopted or was there a mistake in the zoning ordinance that justifies the amendment?

(4) Will the amendment correct an inequitable situation created by the zoning ordinance, rather than merely grant special privileges?

(5) Will the amendment result in unlawful exclusionary zoning?

(6) Will the amendment set an inappropriate precedent, resulting in the need to correct future planning mistakes?

(7) If a rezoning is requested, is the proposed zoning consistent with the zoning classification of surrounding land?

(8) If a rezoning is requested, could all requirements in the proposed zoning classification be complied with on the subject parcel?

(9) If a rezoning is requested, is the proposed zoning consistent with the trends in land development in the general vicinity of the property in question?

(d) *Action by planning commission.* Following the hearing on the proposed amendment, the planning commission shall make written findings of fact, which it shall transmit to the city council, together with the comments made at the public hearing, and its recommendations.

(e) *Action by city council.* The city council may hold additional hearings if the city considers it necessary. Pursuant to Michigan Public Act 110 of 2006, as amended, the city council may by majority vote of its membership:

(1) Adopt the proposed amendment,

(2) Reject the proposed amendment, or

(3) Refer the proposed amendment back to the planning commission for further recommendation within a specified time period. Thereafter, the city council may either adopt the amendment with or without the recommended revisions, or reject it.

(f) *Notice of record of amendment adoption.*

(1) Following adoption of an amendment by the city council, one (1) notice of adoption shall be filed with the city clerk and one (1) notice shall be published in newspaper of general circulation in the city within fifteen (15) days after adoption, as follows, in accordance with Section 401(9) of Michigan Public Act 110 of 2006, as amended:

a. The required notice shall include the following information:

1. In the case of a newly adopted zoning ordinance, the required notice shall include the following statement: A zoning ordinance regulating the development and use of land has been adopted by the legislative body of the City of Dearborn Heights.

2. In the case of an amendment to an existing zoning ordinance, the required notice shall include either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.

3. The effective date of the ordinance or amendment.

4. The place where and time when a copy of the ordinance or amendment may be purchased or inspected.

2. A record of all amendments shall be maintained by the city clerk, and the building department. A master zoning map shall be maintained by the building department, which shall identify all map amendments by number and date.

(Ord. No. H-07-01, § 14.403, 7-24-07)

Sec. 36-524. Notice of intent to file petition.

(a) Within seven (7) days following the passage of a zoning ordinance, a registered elector residing in the zoning jurisdiction of the city may file with the city clerk a notice of intent to file a petition, in accordance with Section 402 of Michigan Public Act 110 of 2006, as amended.

(b) Prior to final legislative action on an amendment to the zoning ordinance by city council, a protest petition shall be presented to the city council, in accordance with Section 403 of Michigan Public Act 110 of 2006, as amended.

(Ord. No. H-07-01, § 14.404, 7-24-07)

Secs. 36-525—36-530. Reserved.

DIVISION 5. VARIANCES AND APPEALS

Sec. 36-531. Intent.

The purpose of this article is to provide guidelines and standards to be followed by the zoning board of appeals (ZBA) to act on matters where this chapter or state law gives jurisdiction to the ZBA.

(Ord. No. H-07-01, § 14.501, 7-24-07)

Sec. 36-532. Authority of the zoning board of appeals.

(a) *General authority.*

(1) As set forth in Section 603(1) of Public Act 110 of 2006, as amended, and herein, the zoning board of appeals shall have the authority to hear and decide questions that arise in the administration of the zoning ordinance, including interpretation of the zoning map and to hear and decide appeals from and review any administrative order, requirement, decision, or determination made by an administrative official, planning commission or city council. The zoning board of appeals shall hear and decide upon matters referred to it as required in this chapter. Also, the zoning board of appeals may adopt rules to govern its procedures sitting as a zoning board of appeals pursuant to Public Act 110 of 2006, as amended.

(2) The zoning board of appeals shall not have the authority to alter or change the zoning district classification of any property, nor make any change in the text of this chapter. The zoning board of appeals shall not have the authority to grant a "use variance." The zoning board of appeals shall not have the authority to hear and decide upon an appeal regarding a special use or a planned development. Further, the zoning board of appeals shall not grant any "non-use" or dimensional variance to any property located in a planned development zoning district, unless specifically authorized by the applicable recorded planned development agreement.

(b) *Administrative review.*

(1) The ZBA shall have authority to hear and decide appeals where it is alleged that there is an error in an order, requirement, permit, decision, or refusal made by an official, city or commission in carrying out or enforcing any provisions of this chapter. The applicant shall request such appeal within thirty (30) days of the date of the order, refusal, requirement, or determination being appealed.

(2) In hearing and deciding appeals under this subsection, ZBA review shall be based upon the record of the administrative decision being appealed, and the ZBA shall not consider new information, which had not been presented to the administrative official, city or commission from whom the appeal is taken. The ZBA shall not substitute its judgment for that of the administrative official, city or commission being appealed, and the appeal shall be limited to determining, based upon the record, whether the administrative official, city or commission breached a duty or discretion in carrying out this chapter.

(c) *Interpretation.* The ZBA shall have authority to hear and decide requests for interpretation of the zoning ordinance, including the zoning map. The ZBA shall make such decisions so that the spirit and intent of this chapter shall be observed. Text interpretations shall be limited to the issues presented, and shall be based upon a reading of the chapter as a whole, and shall not have the effect of amending the chapter. Map interpretations shall be made based upon rules in the chapter, and any relevant historical information. In carrying out its authority to interpret the chapter, the ZBA shall consider reasonable and/or practical interpretations, which have been consistently applied in the administration of the chapter. Prior to deciding a request for an interpretation, the ZBA may confer with staff and/or consultant to determine the basic purpose of the provision subject to interpretation and any consequences which may result from differing decisions. A decision providing an interpretation may be accompanied by a recommendation for consideration of an amendment of the chapter.

(d) *Variances.* The ZBA shall have authority in specific cases to authorize one (1) or more dimensional or "non-use" variances from the strict letter and terms of this chapter by varying or modifying any of its rules or provisions so that the spirit of this chapter is observed, public safety secured, and substantial justice done. A dimensional or non-use variance allows a deviation from the dimensional (i.e., height, bulk, setback) requirements of the chapter. A use variance authorizes the establishment of a use of land that is otherwise prohibited in a zoning district. The ZBA is not authorized to grant use variances by this chapter and Section 604 of Public Act 110 of 2006, as amended. Such authority shall be exercised in accordance with the following standards:

(1) The ZBA may grant a requested "non-use" variance only upon a finding that practical difficulties exist. A finding of practical difficulties shall require demonstration by the applicant of all of the following:

a. Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.

b. The variance will do substantial justice to the applicant, as well as other property owners.

c. A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.

d. The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.

e. The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.

(2) In all variance proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony and/or evidence from which the ZBA may make the required findings. Administrative officials and other persons may, but shall not be required to, provide information, testimony and/or evidence on a variance request. The fact that a variance would increase the value of property or allow an owner to increase profits is not sufficient grounds for granting the variance.

(e) *Conditions.* The ZBA may impose reasonable conditions in connection with an affirmative decision on an appeal, interpretation or variance request. The conditions may include requirements necessary to insure that public services and facilities affected by a proposed land use or activity will be capable or accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet the following requirements.

(1) Be designed to protect natural resources, the health, safety and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as whole.

(2) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.

(3) Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

(4) Conditions imposed with respect to the approval of a variance shall be recorded as part of the ZBA minutes, and shall remain unchanged except upon the mutual consent of the ZBA and the landowner following notice and hearing as required in a new case.

(f) *Temporary use permits.*

(1) The ZBA shall have authority to, pursuant to subsection 36-254(d), review applications for temporary use permits and licenses for festivals, referred to it by the building official. The building official shall ensure that each application for a temporary use permit is reviewed by the ZBA at a public hearing at least once every four (4) years, or more often as provided by subsection 36-532(f)(3).

(2) The ZBA shall, when required by the building official according to subsection 36-532(f)(1), conduct a public hearing on the application for a temporary use permit. Following the close of the hearing, the ZBA shall grant the temporary use permit and recommend approval of the temporary festival license.

(3) Where an applicant has been granted a temporary use permit to hold a festival within the past three (3) years and has been previously granted a license, the building official may review the application administratively unless: there is a material change to the application; there were substantial complaints received following the most recently held festival. The building official shall grant the festival license upon the recommendation of the ZBA where applicable, or upon his own review and approval of the application.

(Ord. No. H-07-01, § 14.502, 7-24-07; Ord. No. H-10-02, § 2, 4-21-10)

Sec. 36-533. Applications and notices.

(a) *Application.* All applications to the ZBA shall be filed with the city clerk, on forms provided by the city, and shall be accompanied by the applicable fee established by resolution of the city council. Applications shall include all plans, studies and other information and data to be relied upon by the applicant. Applications involving a request for a variance shall specify the requirements from which a variance is sought

(b) *Plot plans.* Applications involving a specific site shall be accompanied by a sketch which includes the following information, where applicable:

(1) Applicant's name, address, and telephone number.

(2) Scale, north point, and dates of submission and revisions.

(3) Zoning classification of petitioner's parcel and all abutting parcels.

(4) Existing lot lines, building lines, structures, parking areas, driveways, and other improvements on the site and within fifty (50) feet of the site.

(5) Proposed lot lines and lot dimensions, and general layout of proposed structures, parking areas, driveways, and other improvements on the site.

(6) Dimensions, centerlines, and right-of-way widths of all abutting streets and alleys.

(7) Location of existing drainage courses, floodplains, lakes and streams, and woodlots.

(8) All existing and proposed easements.

(9) Location of sanitary sewer or septic systems, existing and proposed.

(10) Location and size of watermains, well sites, and building service, existing and proposed.

(11) Any additional information required by the zoning board of appeals to make the determination requested herein.

Where an application requests a variance sought in conjunction with a regular site plan review, a site plan prepared according to article V shall satisfy the requirements of this section.

The zoning board of appeals has the authority to require a land survey prepared by a registered land surveyor or registered engineer when the ZBA determines it to be necessary to insure accuracy of the plan.

The ZBA shall have no obligation to consider and/or grant a request for relief unless and until a conforming and complete application has been filed; including relevant plans, studies and other information.

(c) *Applications involving an appeal of administrative order.* In a case involving an appeal from an action of an administrative official or entity, the administrative official, or the clerk or secretary of the administrative entity, as the case may be, shall transmit to the ZBA copies of all papers constituting the record upon which the action was taken, together with a letter specifying an explanation of the action taken.

(d) *Consent of property owner required.* Applications to the ZBA shall be made with the full knowledge and written consent of all owners of the property in question. This requirement shall include the consent of a land contract seller to the relief sought by a land contract purchaser.

(e) *Notice.* The city shall provide written notice of the hearing of an appeal, variance, or interpretation in accordance with section 36-481 of the zoning ordinance.

(f) *Stay of proceedings.* An appeal shall have the effect of staying all proceedings in furtherance of the action being appealed (with the exception of court proceedings already in process) unless the officer or entity from whom the appeal is taken certifies to the ZBA that, by reason of facts stated in such certification, a stay would in his or her opinion cause imminent peril to life or property, in which case proceedings shall not be stayed unless specifically determined by the ZBA, or by a court of competent jurisdiction.

(g) *Decision by the zoning board of appeals.* The concurring vote of a majority of the membership of the ZBA shall be necessary to reverse any order, requirement, decision, or determination of an administrative official, city of commission made in the administration of this chapter, to decide in favor of an applicant on any matter upon which the ZBA is required to pass under this chapter, or to grant a "non-use" variance from the terms of this chapter.

(Ord. No. H-07-01, § 14.503, 7-24-07; Ord. No. H-07-03, § 1E, 1-8-08)

Sec. 36-534. Disposition and duration of approval.

(a) *ZBA powers.* The ZBA may reverse, affirm, vary of modify any order, requirement, decision, or determination presented in a case within the ZBA's jurisdiction, and to that end, shall have all of the powers of the officer, city or commission from whom the appeal is taken, subject to the ZBA's scope of review, as specified in this chapter and/or by law. The ZBA may remand a case for further proceedings and decisions, with or without instructions.

(b) *Decision final.* A decision by the ZBA shall be considered final as of the meeting at which the decision has been made, and the date of such meeting shall be deemed to be the date of notice of the decision to the applicant. To the extent that decisions are requested or required to be in writing, the minutes of the ZBA meeting and decision, as proposed under supervision of the secretary, shall constitute the written decision.

(c) *Period of validity.* Any decision of the ZBA favorable to the applicant shall remain valid only as long as the information and data relating to such decision are found to be correct, and the conditions upon which the

decision was based are maintained. The relief granted by the ZBA shall be valid for a period not longer than twenty-four (24) months, unless otherwise specified by the ZBA, and within such period of effectiveness, actual, on-site improvement of property in accordance with the approved plan and the relief granted, under a valid building permit, must be commenced or the grant of relief shall be deemed void. The period of approval may be automatically extended by twelve (12) months if the variance was sought in conjunction with a site plan for which approval has been extended by the planning commission.

(d) *Record of proceedings.* The city administrative staff, under the supervision of the secretary of the ZBA, shall prepare and keep minutes of the ZBA proceedings, showing the findings, decisions, conditions, if any, and votes of each member in each case, including a member's absence or failure to vote. The minutes shall be within the ultimate authority, and shall be the responsibility, of the secretary of the ZBA, and shall be subject to approval of the ZBA. To the extent that a written decision in a case is requested or required, the minutes, prepared under the supervision of the ZBA secretary, along with the plan submitted, shall serve as the written decision, even if the minutes are awaiting final ZBA approval.

(e) *Appeal of a ZBA decision.* Appeals of a ZBA decision shall be filed within thirty (30) days after the zoning board of appeals certifies its decision in writing or approves the minutes of its decision, whichever comes first, and shall be made in the manner provided by Section 606 of Public Act 110 of 2006, as amended.

(f) *New application for variance.* If the ZBA denies a request for a variance, the decision of the ZBA shall not be subject to reconsideration for a period of one (1) year, whereupon the applicant may submit a new application for the variance. However, the ZBA may waive the one (1) year period if conditions upon which their original decision was made change, or if information relating to their original decision are found to be incorrect or inaccurate.

(Ord. No. H-07-01, § 14.504, 7-24-07)

Secs. 36-535—36-550. Reserved.

ARTICLE XV. RESERVED

Secs. 36-551—36-570. Reserved.

ARTICLE XVI. PLANNED DEVELOPMENTS

Sec. 36-571. Intent.

(a) The intent of the planned development option is as follows:

(1) To permit regulatory flexibility;

(2) To achieve development that is in accordance with the city's master plan;

(3) To achieve economy and efficiency in the use of land, natural resources, energy, and in the provision of public services and utilities;

(4) To encourage the creation of useful open/public space particularly suited to the proposed development and parcel on which it is located;

(5) To conserve natural features, natural resources, and energy; and,

(6) To provide appropriate development to satisfy the demonstrated needs of residential of the city.

(b) It is further intended that development allowed in accordance with this article be designed to ensure that proposed uses, buildings, and site improvements relate to each other and to adjoining existing and planned uses in such a way that they will be compatible, with no adverse impact of one use on another.

(c) The planned development option shall be considered an optional means of development. The availability of this option shall not obligate the city to approve proposed a planned development.

(d) The election of the planned development option shall not be for the sole purpose of avoiding the requirements for dimensional variances involving uses that would already be permitted in the underlying zoning district(s).

(Ord. No. H-07-01, § 16.01, 7-24-07)

Sec. 36-572. Qualifying conditions.

The following provisions shall apply to all planned unit developments:

(1) A PD may be applied for in any zoning district. A PD application shall require a rezoning by way of an amendment to this chapter upon the recommendation of the planning commission and approval by city council.

(2) Adequate public health, safety and welfare protection mechanisms shall be designed into the PD to ensure the compatibility of varied land uses both within and outside the development for any land use or mix of land uses authorized in this chapter, which may be included in a PD.

(3) A PD zoning classification may only be approved in conjunction with an approved PD site plan.

(4) The PD shall result in a recognizable and substantial benefit to the ultimate users of the project and to the community, and shall result in a higher quality of development than could be achieved under conventional zoning.

(5) The proposed type and density of use shall not; 1) result in an unreasonable increase in the use of public services, facilities and utilities, 2) create a demand that exceeds the capacity of utilities, and 3) place an unreasonable burden upon the subject site, surrounding land, property owners and occupants, or the natural environment.

(6) The proposed development shall not have an adverse impact upon the master plan for the city. Notwithstanding this requirement, the city may approve a PD proposal that includes uses or residential density which are not called for on the future land use map, provided that the city council, upon receiving a recommendation from the planning commission, determines that such a deviation from the future land use map is justified in light of the current planning and development objectives of the city.

However, upon approval of a PD, the planning commission shall initiate action where necessary to amend the master plan so that the future land use map designation is consistent with the approved planned development.

(7) The proposed development shall not result in an unreasonable negative economic impact upon surrounding properties.

(8) The proposed development shall preserve distinct natural features on the site to the maximum extent feasible, such as, but not limited to: woodlands, wetlands, rolling topography, natural drainage courses and flood hazard areas, etc. A PD shall comply with the city's tree protection ordinance.

(9) The proposed development shall either; (1) be under single ownership or control such that there is a single person or entity having responsibility for assuring completion of the project in conformity with this chapter, or (2) if there is more than one owner or entity with an interest in the project, then there

shall be a commitment in writing by each owner and/entity to work in unison to complete the project in complete conformity with this chapter.

a. The applicant(s) shall provide legal documentation of single ownership, single control, or joint unified control in the form of agreements, contracts, covenants, and deed restrictions which indicate that the development can be completed as shown on the plans, and further, that all portions of the development that are not to be maintained or operated at public expense will continue to be operated and maintained by the developers or their successors. These legal documents shall bind all development successors in title to any commitments made as a part of the documents. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is submitted to the building department.

(Ord. No. H-07-01, § 16.02, 7-24-07)

Sec. 36-573. Application review procedure and authorization.

The approval of a planned development application shall require an amendment to the zoning ordinance to revise the zoning map and designate the subject property as PD, planned development. Approval granted under this article, including all aspects of the final plan and documentation and conditions imposed thereon, shall constitute an inseparable part of the zoning amendment.

(1) *Summary of review procedures.* A detailed explanation of the review procedures follows. If a proposal is inconsistent with the city's master plan and/or zoning map, then additional steps may be required to amend the master plan or change the underlying zoning to achieve consistency with the PD as described in subsection 36-572(6) and subsection (2)e below. Where a change to the underlying zoning is required, final action on the rezoning shall not be taken until immediately prior to action on the final PD plan.

(2) *General application requirements.*

a. The application for PD shall be made on the forms supplied by the building department, shall be submitted to the building department along with the required application fee and according to the guidelines approved by the planning commission. The applicant shall be responsible for all costs incurred to process and review the application. The applicant or a designated representative shall be present at all scheduled review meetings or consideration of the plan may be tabled due to lack of representation.

b. All information required for conceptual or final review shall be submitted to the building department at least twenty-eight (28) working days prior to the planning commission or city council meeting in order to be eligible for consideration. Notwithstanding the twenty-eight-day time limit, a case may be withheld from an agenda because of deficiencies to the plans, public notice requirements, or the planning commission's or city council's need to manage their caseload.

c. *Pre-application meeting.*

1. *Optional.* In order to facilitate processing of an application for planned development in a timely manner, the city provides opportunities for potential applicants to meeting with and discuss development/redevelopment proposals with city officials, staff, and consultants for the purpose of obtaining information and guidance regarding land development regulations and the city's master plan in the preparation of the required PD site plan and application materials. The applicant shall have an opportunity to confer in a pre-application meeting with the community development director, building official, the city planning consultant, the city engineering consultant, and the city attorney, and all other appropriate city officials, including but not limited to police, fire and public works, and for proposals located within the TIFA district, the director of the TIFA. The city attorney and city planning and engineering consultant's fees for any such pre-application conference shall be paid by the applicant prior to the scheduling of the meeting and shall be processed in accordance with subsection 36-497(a)(1).

2. *Mandatory.* A pre-application meeting is required for all proposed developments within the tax increment financing authority (TIFA) district by the director of the TIFA or its designated representative, the city planning consultant, building official, and other relevant city staff, and city engineer, as applicable. The applicant need not present drawings or site plans at a pre-application conference, but even if drawings or site plans are presented, no formal action shall be taken on a site plan at a pre-application conference. The city attorney and city planning and engineering consultant's fees for any such pre-application

conference shall be paid by the applicant prior to the scheduling of the meeting and shall be processed in accordance with subsection 36-497(a)(1).

3. At the pre-application meeting, the applicant shall submit a preliminary sketch plan for the proposed PD, plus a legal description of the property in question; the total number of acres in the project; a statement of the approximate number of residential units, if the proposal contains a residential component, and the approximate number of acres to be occupied by each type of use, for mixed use development proposals; the number of acres to be preserved as open or recreational space; and, all known natural resources and natural features to be preserved. The sketch plan shall show enough of the surrounding area to demonstrate the relationship of the PD to adjoining uses, both existing and proposed.

4. No formal action shall be taken on a site plan submitted for pre-application conference. The pre-application meetings shall not constitute any form of approval of the planned development or the site plan. The process is intended to give the applicant an indication of the issues and concerns prior to formally applying for conceptual PD plan review.

d. *Optional joint conceptual review by the planning commission and city council.* The following procedure shall be followed when applying for the optional joint conceptual PD review by the planning commission and city council. Planned development projects are encourage to undergo a conceptual review process in order to facilitate a complete and thorough review prior to approval. The joint conceptual review option is provided because PD projects are generally large or complex projects with higher intensity development that could have a major impact on surrounding land uses and significantly affect the health, safety and general welfare of city residents.

1. *Conceptual review procedure.* All PD projects proposals are encouraged to undergo a joint conceptual review by the planning commission and city council. No formal action shall be taken on a plan submitted for conceptual review. Upon completion of the conceptual review by the planning commission and city council, the minutes of the conceptual review meetings shall be prepared and be made available for the benefit and use of the planning commission and city council during the final review of the proposal.

2. *Information required for conceptual review.* The information required for conceptual review shall be provided according to the requirements of section 36-574(1) and shall be submitted to the building department for review. If complete and accurate plans and documents are submitted at least twenty-eight (28) days prior to a regularly scheduled planning commission of city council meeting, as appropriate, the case will be eligible to be placed on the meeting agenda (although placement on an agenda may be delayed due to other scheduling priorities).

3. *Effect of conceptual review.* The conceptual review shall not constitute any form of approval of the planned development or the site plan. The process is intended to give the applicant an indication of the issues and concerns that must be resolved prior to preliminary and final PD plan review.

e. *Preliminary review.* PD projects shall undergo a two-step plan review and approval process involving preliminary and final review. The procedures for preliminary review are outlined in this subsection. The preliminary site plan shall be subject to the site plan review requirements in article XIV, division 2, where applicable, as well as the additional requirements in this section.

1. *Information required for preliminary plan review.* The information required for preliminary review shall be provided according to the requirements of subsection 36-572(2). The applicant shall submit copies of the preliminary plan and supporting materials to the building department for review. If complete and accurate plans and documents are

submitted at least twenty-eight (28) days prior to a planning commission meeting, the case will be eligible to be placed on the meeting agenda (although placement on an agenda may be delayed due to other scheduling priorities).

2. *Amendment to the underlying zoning.* If revisions to the underlying zoning are required pursuant to subsection (2)e. then such revisions shall be initiated at the preliminary plan stage of review. The rezoning shall be initiated by submitting a completed application for amendment to the zoning map pursuant to article XIV, division 4, which shall be accompanied by a legal description of the property that is subject to rezoning. The rezoning request may be processed concurrently with the PD application, but final action on the rezoning shall be delayed until immediately prior to final PD plan approval.

3. *Professional review.* The preliminary PD plan and supporting materials shall be distributed to the city's planning consultant and engineering consultant, who shall submit written reviews of the preliminary plan to the planning commission, whenever possible at least five (5) days prior to the meeting at which the case will be discussed. Input from other city officials, such as police, fire and public works, and or outside agencies, such as the Wayne County DPS, may be sought.

4. *Public hearing.* The planning commission shall hold a public hearing on each planned development proposal, in accordance with section 36-481.

5. *Planning commission review.* The planning commission shall review the preliminary plan and application for planned development, together with the public hearing findings and any requested reports and recommendations from the building official, city planning consultant, city attorney, city public safety officials, city engineer, and other reviewing agencies. The planning commission may recommend approval, approval with conditions, or denial of the preliminary PD plan as follows, or the planning commission may table action on the case:

    (i) *Approval.* Upon determination by the planning commission that the preliminary PD plan is in compliance with the standards and requirements of this chapter and other applicable ordinances and laws, and that the proposed development would be beneficial to the public health, safety, and welfare and orderly development of the city, the planning commission shall grant approval of the preliminary PD plan.

    (ii) *Approval with conditions.* The planning commission may impose reasonable conditions upon the approval of a preliminary PD plan, to the extent authorized by law, for the purposes of insuring that public services and facilities affected by the proposed development will be capable of accommodating increased public service loads caused by the development, protecting the natural environment and conserving natural resources and energy, insuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner. Conditions imposed shall be designed to protect the natural resources and the public health, safety and welfare of individuals in the development and those immediately adjacent, and the community as a whole. Conditions imposed shall also be necessary to meet the intent of this chapter and the standards set forth in section 36-571.

    (iii) *Denial.* Upon determination by the planning commission that a preliminary PD proposal does not comply with the standards and regulations set forth in this chapter, or otherwise would be injurious to the public health, safety, welfare,

and orderly development of the city, the planning commission shall recommend denial.

(iv) *Table.* If the planning commission determines that there is additional information needed to make a decision, and the developer is willing to provide such information, then the commission may table or postpone the case to a subsequent meeting.

6. *Effect of preliminary approval or denial.* A preliminary approval shall mean that the PD project and plan generally meet the requirements of this chapter. Subject to any conditions imposed by the planning commission as part of its motion, final approval will be granted if:

(i) All state and county approvals are obtained;

(ii) No unresolved negative comments are received by any governmental agencies or public utilities; and

(iii) All federal, state and local laws and ordinances are met; and

(iv) All conditions imposed during preliminary plan approval are met.

A. An unresolved negative comment shall be one that indicates the existence of a condition which is contrary to the requirements of this chapter or other applicable ordinances or laws, where such requirement has not been waived or dismissed as a result of an approval by the planning commission.

B. If the planning commission determines that revisions are necessary to bring the PD proposal into compliance with applicable standards and regulations, the applicant shall be given the opportunity to submit a revised plan for further review by the planning commission and city council.

7. *State and county approval.* Following preliminary PD plan approval by the planning commission, the applicant shall seek approval of the plan from local, county and state agencies that have jurisdiction over any aspect of the project. In the event that an agency cannot grant final approval based on the information currently available, then preliminary or conditional approval shall be sought to confirm the feasibility of the plan.

(i) All PD projects shall require the review and approval of the following agencies prior to final site plan approval:

A. All city officials, including police, fire and department of public works;

B. The roads division of the Wayne County Department of Public Services or, if any part of the project includes or abuts a state highway or includes streets or roads that connect with or lie within the right-of-way of a state highway, the Michigan Department of Transportation;

C. The Wayne County Department of Environment;

D. The Wayne County Health Department and the Michigan Department of Environmental Quality shall approve the potable water system and the waste water disposal system;

E. Approval of the Michigan Department of Environmental Quality shall be required for any activity involving regulated wetlands, watercourses, and floodplains.

In the that negative comments are received from any of these agencies, the planning commission shall consider the nature of such comments with respect to chapter requirements, conditions on the site, response from the applicant, and other factual data related to the issue or concern. Negative comments shall not automatically result in denial of the plan, but every effort shall be made to resolve any issues or concerns cited by these agencies prior to taking action on the plan.

(ii) In addition to the specific required approvals, all planned development project site plans shall have been submitted to the Michigan Department of Natural Resources, each of the public utilities serving the site, and any other state agency designated by the planning commission, for informational purposes. The planning commission shall consider any comments made by these agencies prior to final site plan approval.

f. *Planning commission final review and recommendation.* Final approval of the PD plan shall be considered by the planning commission upon the receipt of all the information required for final review in this subsection.

1. *Submission of revised site plan.* The applicant shall submit copies of the final PD plan and supporting materials to the building department for review. If complete and accurate plans and documents are submitted at least twenty-eight (28) days prior to a planning commission meeting, the case will be eligible to be placed on the meeting agenda (although placement on an agenda may be delayed due to other scheduling priorities).

2. *Professional review.* The final PD plan and supporting materials shall be distributed to the city's planning consultant and engineer consultant, who shall submit written reviews of the preliminary plan to the planning commission, whenever possible at least five (5) days prior to the meeting at which the case will be discussed.

3. *Final approval by planning commission.* The planning commission shall review the application for final PD, together with the public hearing findings gathered during preliminary review, and any reports and recommendations from the building official, city planning consultant, city attorney, city public safety officials, city engineering consultant, and other reviewing agencies. The planning commission shall then make a recommendation to the city council, based on the requirements and standards of this chapter. If revision to the underlying zoning is required, then the planning commission shall make a recommendation on the rezoning prior to taking action on the final PD plan. The planning commission may recommend approval, approval with conditions, denial, or table action on the case, as follows:

(i) *Approval.* Upon finding that the final PD plan and supporting documentation, including the planned development agreement, are in compliance with the standards and requirements of this chapter and other applicable ordinances and laws, that the development will not be injurious to the public health, safety, and welfare, and orderly development of the city, and that all conditions of preliminary plan approval have been met, then the planning commission shall recommend approval.

(ii) *Approval with conditions.* The planning commission may recommend that the city council impose reasonable conditions upon the approval of a PD, to the extent authorized by law, for the purposes of insuring that public services and

facilities affected by the proposed development will be capable of accommodating increased public service loads caused by the development, protecting the natural environment and conserving natural resources and energy, insuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner. Conditions imposed shall be designed to protect the natural resources and the public health, safety and welfare of individuals in the development and those immediately adjacent, and the community as a whole. Conditions imposed shall also be necessary to meet the intent of this chapter and the standards set forth in section 36-571. In the event that the PD is approved subject to specified conditions, such conditions shall become a part of the record of approval and such conditions shall be modified only as provided in section 36-577.

Where construction is not proposed to begin immediately, or where a project is proposed for construction in phases, the planning commission may recommend that final approval be granted subject to subsequent review and approval of detailed site plans for each facility or phase, in accordance with article XIV, division 2, Site plan review provided that:

A. The location and approximate size of such buildings shall be shown on the overall plan for the PD;

B. Detailed site plans for such buildings shall be submitted for review and approval in accordance with the site plan review requirements in article XIV, division 2, Site plan review; and

C. The plan shall comply with the phasing requirements in section 36-576.

(iii) *Denial.* Upon determination by the planning commission that a PD proposal does not comply with the standards and regulations set forth in this chapter, including section 36-571, or otherwise would be injurious to the public health, safety, welfare, and orderly development of the city, the planning commission shall recommend denial.

(iv) *Table.* If the planning commission determines that there is additional information needed to make a decision, and the developer is willing to provide such information, then the commission may table the case to a subsequent meeting.

4. *Transmittal of findings to city council.* The city planning consultant shall prepare and transmit a report to the city council stating it's and the planning commission's conclusions and recommendation, the basis for it's the planning commission's recommendation, and any recommended conditions relating to an affirmative decision.

g. *City council action required.* Following receipt of the planning commission's report, the application shall be placed on the city council next available meeting agenda. The city council shall review the final plan and proposed planned development agreement, together with the findings of the planning commission and the planning commission minutes, and, reports and recommendations from consultants and other reviewing agencies. Following completion of its review, the city council shall approve, approve with conditions, or deny a planned development proposal in accordance with the guidelines described previously in section 36-575. However, if the city council determines that there is additional information needed to make a decision, and the developer is willing to provide such information, then the council may table the case to a subsequent meeting and/or remand the case to the planning commission for further review. PD approval results in an amendment to the zoning ordinance, so one reading at a subsequent meeting is required by the city council. If a plan is approved subject to conditions, then all such

conditions shall be addressed prior to execution of the planned development agreement. Denial of a final plan by the city council terminates the approval process.

1. *Planned development agreement.* If the city council approves the pd proposal, the city and applicant shall execute the planned development agreement, which shall be recorded in the office of the Wayne County Register of Deeds. Final approval of the PD plan shall become effective upon recording of the agreement. Evidence of the recorded agreement shall be submitted to the city, whereupon the designation on the zoning map will be changed to PD.

2. *Effect of approval.* Approval of a PD proposal shall constitute an amendment to the zoning ordinance. All improvements and use of the site shall be in conformity with the PD amendment and any conditions imposed. A notice of record of amendment adoption shall be filed, in accordance with subsection 36-523(f).

h. *Recording of planning commission and city council action.* Each action taken with reference to a PD shall be duly recorded in the minutes of the planning commission or city council, as appropriate. The grounds for the action taken shall also be recorded in the minutes.

i. *Completion of site design.*

1. *Obtaining a building permit.* Following final approval and recording of a PD, a building permit may be obtained for the entire project or specific phases provided that:

(i) Final site plan, condominium, or subdivision plat approval for the project or phase, as applicable, has been obtained;

(ii) The engineering plans for the project or phase, as applicable, have been approved by the city engineering consultant, building official, and other city officials, including police, fire and public works; and

(iii) All applicable city, county, and state permits have been obtained.

2. *Expiration and extension of approval.*

(i) Construction shall commence on at least one (1) phase of the project within twenty-four (24) months of final approval. However, the developer may seek subsequent twelve (12) month extensions of approval by submitting a written request to the building department prior to the expiration date. Extension of approval is not required for an uncompleted project where there is ongoing construction.

(ii) A request for extension shall be distributed for review and recommendation by the planning consultant and building official, and other city officials, as applicable, who shall provide a written report to the planning commission.

(iii) The planning commission shall consider the request after reviewing all reports from consultants and other city officials, as required to make a determination. The planning commission may grant an extension of up to twelve (12) months upon finding that the approved plan represents current conditions on and surrounding the site. The planning commission shall then provide a written report to the city council of their action.

(iv) If construction has not commenced and a request for extension has not been received within twenty-four (24) months, the planning commission may initiate proceedings to amend the zoning classification of the site to remove the PD classification, in accordance with article XIV, division 4.

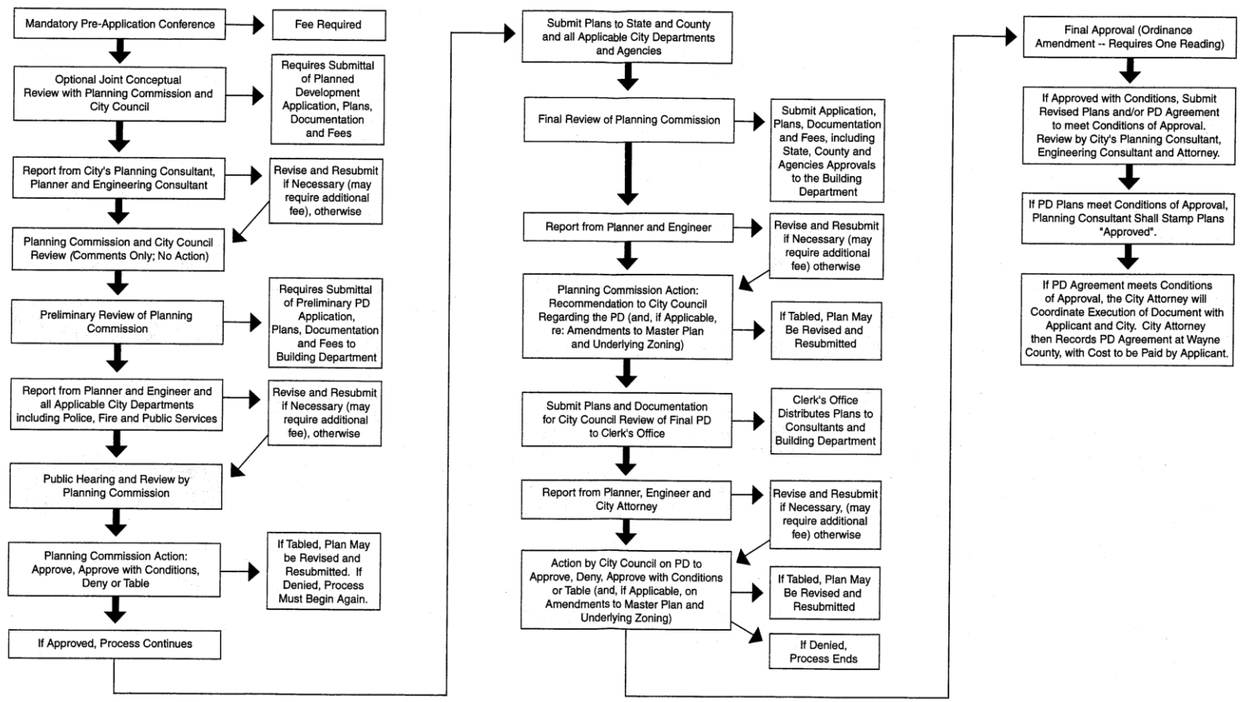
3. *Maintenance of the property.* The owner of the property for which approval has been granted shall maintain the property in accordance with the approved PD plan on a continuing basis until the property is razed, or until an amendment to the PD is approved. Any property owner who fails to so maintain an approved planned development shall be deemed in violation of the zoning ordinance and shall be subject to the penalties appropriate for such violation.

4. *Expansion or conversion.* Prior to expansion or conversion of a PD project to include additional land, plan review and approval shall be required pursuant to the requirements in this article and chapter.

j. *Performance guarantee.* A performance guarantee shall be deposited with the city to insure faithful completion of improvements, in accordance with article I.

(Ord. No. H-07-01, § 16.03, 7-24-07)

PLANNED DEVELOPMENT REVIEW PROCESS



Sec. 36-574. Application and plan requirements.

Applications for PD projects shall include all data requirements specified in this subsection. All information required to be furnished under this subsection shall be kept updated until a certificate of occupancy has been issued pursuant to section 36-6.

(1) *Requirements for conceptual review.* It is required that the following information be provided prior to conceptual PD plan review, pursuant to subsection 36-573(2)d. The absence of any requested information may limit the extent to which the planning commission and city council can comment on the proposal:

a. The name, address and telephone number of:

1. All persons with an ownership interest in the land on which the PD project will be located together with a description of the nature of each entity's interest (for example, fee owner, optionee, lessee, or land contract vendee).

2. All engineers, attorneys, architects or registered land surveyors associated with the project.

3. The developer or proprietor of the planned development project.

b. The legal description of the land on which the planned development project will be developed together with appropriate tax identification numbers.

c. The area of the land (in acres) on which the PD project will be developed.

d. An overall conceptual land use plan for the PD, drawn to scale. The overall plan shall graphically represent the development concept using maps and illustrations to indicate each type of use, square footage or acreage allocated to each use, and approximate locations of each principal structure and use in the development. The overall plan shall indicate types of residential use; office, commercial, industrial, and other nonresidential uses; each type of open space; community facility and public areas; and other proposed land uses.

e. The conceptual land use plan shall also show the following information:

1. A general location map.

2. The vehicular circulation system planned for the proposed development.

3. The location of existing private and public streets adjacent to the proposed development with an indication of how they will connect with the proposed circulation system for the new development.

4. The approximate layout of dwelling units, parking, open space, and recreation/park areas.

5. Landscaped screening proposed along the perimeter of the development.

f. Approximate number of nonresidential buildings and residential units proposed to be developed on the subject parcel. For residential developments, an analysis shall be provided to determine the number of units that could be developed on the property under conventional zoning.

g. Topographic survey and soils inventory based on the Wayne County Soils Survey.

h. General locations and approximate dimensions of wetland areas, floodplains, and significant site features such as tree stands, unusual slopes, streams and water drainage areas.

i. A description of the proposed connections to public sewer and water systems. Plans should be sufficiently detailed to demonstrate connection is possible.

j. Proposed stormwater management and drainage system.

k. A map showing existing zoning designations for the subject property and all land within one-quarter (¼) mile.

l. A map and written explanation of the relationship of the proposed planned development to the city's master plan for future land use.

m. Maps and written analysis of the significant natural, cultural, and geographic features of and near the site. Features which shall be considered include existing vegetation, topography, water courses, wildlife habitats, streets and rights-of-way, easements, structures, and soils.

n. An analysis of the traffic impact of the proposed PD on existing and proposed streets.

o. An analysis of the fiscal impact (costs and revenues) of the proposed PD on the city and the school district in which the development is located.

p. Documentation that the applicant has sufficient development experience to complete the proposed project in its entirety (e.g., provide a list of developments completed by the applicant in the past ten (10) years, with a description of the project, number of units, and time required to complete).

q. A general schedule for completing the PD, including the phasing or timing of all proposed public and private improvements.

(2) *Requirements for preliminary review.* In addition to the requirements in article XIV, division 2 and applicable information specified on the site plan checklist, the following information shall be included on, or attached to, all PD plans submitted for preliminary review:

a. All preceding information required for conceptual review.

b. A detailed overall plan for the PD which shows all of the information required on the conceptual land use plan plus the following:

1. Locations and setbacks of each structure and use in the development.

2. Typical layouts and facade design for each type of use or building. Detailed information, including floor plans, facade elevations, and other information normally required for site plan review, shall be provided for buildings which are proposed for construction in the first phase.

3. The building footprint of proposed buildings. In the case of single family detached development, the plan should indicate the setbacks and outline of the area within which a house could be constructed on each lot.

4. The vehicular circulation system planned for the proposed development, including a designation of each street as to whether it is proposed to be private or dedicated to the public.

5. The proposed layout of parking areas, open space, and recreation/park areas.

6. Proposed landscape screening along the perimeter and within the site, including greenbelts, berms and screening walls.

c. The precise number of nonresidential and residential units to be developed on the subject parcel.

d. An environmental analysis of the land, including a hydrology study, analysis of soil conditions, and analysis of other significant environmental features. The hydrology study shall consist of information and analysis in sufficient detail (as determined by the city's engineering consultant) to indicate the impact of the project on surface water and groundwater.

e. Specific locations and dimensions of wetland areas and significant site features such as tree stands, unusual slopes, streams and water drainage areas.

f. A complete description of the proposed connections to public sewer and water supply systems, including documentation from a qualified engineer indicating the feasibility of implementing such systems.

g. Storm water and drainage system details.

h. Location of bike paths and sidewalks along roads and elsewhere within the development.

i. A specific schedule for completing the planned development, including the phasing or timing of all proposed improvements.

(3) *Requirements for final review.* In addition to the requirements in article XIV, division 2 and applicable information specified on the site plan checklist, the following information shall be included on, or attached to, all PD plans submitted for final review:

a. All information required for conceptual and preliminary review as specified in subsection (1) and (2), previously, and any specified as conditions of preliminary PD approval.

b. Detailed site plans for all buildings and uses which the applicant intends to begin construction on immediately upon final PD approval. Where construction is not proposed to begin immediately or where a project is proposed for construction in phases, the planning commission may recommend that final approval be granted subject to subsequent review and approval of detailed site plans for each facility or phase, in accordance with article XIV, division 2.

c. Detailed engineering plans for all portions of the project which the applicant intends to begin construction on immediately upon final planned development approval. Where construction is not proposed to begin immediately or where a project is proposed for construction in phases, the planning commission may recommend that final approval be granted subject to subsequent review and approval of detailed engineering plans for each facility or phase. Such plans shall be prepared in accordance with the city engineering standards, and shall at minimum include the following:

1. Engineering plans for all roads, drive aisles, and paved areas,

2. Site drainage plans, including retention and/or detention areas,

3. Engineering plans for proposed utility systems, including sanitary sewerage and water systems.

4. Plans for controlling soil erosion and sedimentation during construction.

d. Following approval of a PD proposal and an amendment to the zoning ordinance per article XIV, division 4, final site plan and engineering review and approval shall be required prior to obtaining a building permit and commencement of construction for each facility or phase.

e. A draft planned development agreement, setting forth the terms and conditions negotiated and to be agreed to by the applicant and the city, and upon which approval of the PD proposal will be based. The planned development agreement shall, at minimum, include the following:

1. A description of the land that is subject to the agreement.

2. A description of the permitted uses of the property, the density or intensity of use, and the maximum height and size of proposed buildings.

3. History of the review procedures and action taken by the planning commission or city council.

4. List of all plans, documents, and other materials submitted by the applicant.
5. Review and explanation of all special provisions agreed to by the applicant and city during the course of review of the PD proposal.
6. An explanation of all public improvements to be undertaken by the applicant or the city in conjunction with the proposed PD project.
7. Description of any required dedications and permits.
8. Confirmation that the proposed development is consistent with applicable city ordinances and planning objectives.
9. Duration of the planned development agreement, along with terms under which a termination date may be extended by mutual agreement.
10. Applicability of future amendments to the general zoning regulations to land that is subject to the proposed planned development agreement.
11. Extent to which the PD plan may be modified subject to administrative approval, planning commission approval, or city council approval.
12. Copies of permits and the conditions of approval received from local, county, or state agencies have jurisdiction over any aspect of the project.

(Ord. No. H-07-01, § 16.04, 7-24-07)

Sec. 36-575. Approval standards.

In considering any application for approval of a PD plan, the planning commission and city council shall make their determinations on the basis of the standards for site plan approval set forth in article XIV, division 2, as well as the following standards and requirements:

(1) *Conformance with the planned development concept.* The overall design and all uses proposed in connection with a PD shall be consistent with and promote the intent of the PD concept, as well as with specific project design standards set forth herein.

(2) *Compatibility with adjacent uses.* The proposed PD shall set forth specifications with respect to height, setbacks, density, parking, circulation, landscaping, views, and other design and layout features which exhibit due regard for the relationship of the development to surrounding properties and the uses thereon. In determining whether this requirement has been met, consideration shall be given to:

a. The bulk, placement, and materials of construction of proposed structures.
b. The location and screening of vehicular circulation and parking areas in relation to surrounding development.
c. The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.
d. The hours of operation of the proposed uses.
e. The provision of landscaping and other site amenities.
f. The anticipated level of noise, vibration, smoke, odor or other environmental discharge.

(3) *Public services.* The proposed PD shall not exceed the capacity of existing and available public services, including but not necessarily limited to utilities, public roads, police and fire protection services, and

educational services, unless the proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the PD is completed.

(4) *Impact of traffic.* The PD shall be designed to minimize the impact of traffic generated by the proposed development on surrounding uses. In determining whether this requirement has been met, consideration shall be given to:

a. Access to major thoroughfares.

b. Estimated traffic to be generated by the proposed development.

c. Proximity and relation to intersections.

d. Adequacy of driver sight distances.

e. Location of and access to off-street parking.

f. Required vehicular turning movements.

g. Extent and nature of road improvements.

h. Provisions for pedestrian and bicycle traffic.

(5) *Protection of natural environment.* The proposed PD shall be protective of the natural environment, and shall be in compliance with all applicable environmental protection laws and regulations. Every feasible effort shall be made to preserve distinctive natural features, such as woods, wetlands, streams, natural drainage courses and wildlife habitat, and incorporate such features into the design of the PD. Buildings and structures in PD projects shall comply with the wetlands and watercourse setback requirements specified in section [36-316] and flood hazard area overlay zone requirements in section [36-317].

(6) *Compatibility with the master land use plan.* The proposed planned development shall be consistent with the general principles and objectives of the adopted city's master plan for future land use.

(7) *Compliance with applicable regulations.* The proposed PD shall be in compliance with all applicable federal, state, and local laws and regulations.

(Ord. No. H-07-01, § 16.05, 7-24-07)

Sec. 36-576. Phasing requirements.

Where a project is proposed for construction in phases, the project shall be so designed that each phase, when completed, shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the planned development and the residents of the surrounding area.

In addition, proposed phasing shall comply with the following requirements:

(1) *Coordination of residential and nonresidential components.* In developments which include residential and nonresidential components, the residential component shall be completed at the same rate or prior to the nonresidential component. For example, if fifty (50) percent of the nonresidential component is proposed to be completed in a certain phase, then at least fifty (50) percent of the residential component should be completed in the same phase. One hundred (100) percent of the residential component shall be completed prior to the final phase of nonresidential construction. The construction of roads, utilities, and other infrastructure shall be considered completion of a residential component, where the intent is to sell lots to others who will construct the housing units.

The purpose of this provision is to ensure that PD projects are constructed in an orderly manner and, further, to ensure that the PD approach is not used as a means of circumventing restrictions on the location or quantity of certain types of land use. For purposes of carrying out this provision, the percentages shall be approximations as determined by the planning commission based on the floor area and land area allocated to each use. Such percentages may be varied should the city council, upon recommendation from the planning commission, determine that the applicant has presented adequate and effective assurance that the residential component or components of the project shall be completed within the specified period.

(2) *Commencement of construction.* Construction of any facility may commence at any time following site plan approval per article XIV, division 2, provided that construction shall be commenced for each phase of the project within twenty-four (24) months of the schedule set forth on the approved plan for the PD.

However, the applicant may submit a revised phasing plan for review and approval by the planning commission. The applicant shall also submit a statement indicating the conditions which made the previous phasing plan unachievable. Once construction of a PD has commenced, approval of a revised phasing plan shall not be unreasonably withheld or denied, provided that the revised phasing does not materially change the integrity of the approved planned development proposal.

In the event that construction has not commenced within the required time period and a revised phasing plan has not been submitted, the city may initiate proceedings to amend the zoning classification of the undeveloped portion of the site.

(Ord. No. H-07-01, § 16.06, 7-24-07)

Sec. 36-577. Revision and/or modifications of an approved planned development plan.

(a) *General revisions.* Approved final plans for a PD project may be revised in accordance with the procedures set forth in section 36-573.

(b) *Minor changes.* Notwithstanding subsection 36-573(1), minor changes may be permitted by the planning commission following normal site plan review procedures outlined in article XIV, division 2, subject to its finding that:

(1) Such changes will not adversely affect the initial basis for granting approval.

(2) Such minor changes will not adversely affect the overall planned development in light of the intent and purpose of such development as set forth in section 36-571.

(Ord. No. H-07-01, § 16.07, 7-24-07)

Sec. 35-578. Project design standards.

Proposed planned developments that satisfy the qualifying criteria in section 36-572 shall comply with the following project design standards:

(1) *Location. A* planned development may be approved in any location in the city, subject to review and approval as provided for herein.

(2) *Permitted uses.* Any land use authorized in this chapter may be included in a planned development as a principal or accessory use, provided that:

a. The predominant use on the site, based on acreage, shall be consistent with the uses specified in the city's future land use plan and zoning map. Where the predominant uses are not consistent,

prior to PD approval, an amendment to the future land use plan, and map may be required, as noted in subsection 36-572(6), and an amendment to the zoning map may be required, as noted in subsection e., below.

b. There shall be a reasonably harmonious relationship between the location of buildings on the site relative to buildings on lands in the surrounding area.

c. Residential, neighborhood commercial, office, and public uses may be developed together in a PD project, provided the uses are compatible and complementary, demonstrating good site design and planning principles.

d. The mix of uses and the arrangement of those uses within a PD project shall not impair the public health, safety, welfare, or quality of life of residents or the community as a whole.

e. Where the existing underlying zoning district is residential, nonresidential uses may be permitted as a part of a planned development provided that such nonresidential uses occupy a maximum of twenty (20) percent of the buildable acreage of the site, subject to the following conditions:

1. The mix of uses must be consistent with the planned uses in the master plan.

2. An amendment to the zoning map to change the underlying zoning (see definition of "underlying zoning" in article II) shall be required prior to final PD approval if more than twenty (20) percent of the acreage in a residential PD is proposed to be occupied by nonresidential uses.

3. For the purposes of this subsection (2)e, nonresidential may include, but is not limited to: commercial, office, research, public (e.g., library, post office, municipal facilities, schools, etc), and recreational.

(3) *Residential density.* The overall density of residential uses within a PD may exceed the density that could be achieved with the underlying zoning by five (5) percent. In determining the density achievable with the underlying zoning, only the net buildable area of the residential portion of the site shall be considered. The "net buildable area" consists of the portion of the site that is not encumbered by regulated wetlands, steep slopes, existing road rights-of-way, easements, floodplains that cannot be included in residential lots, existing structures or lots, or other existing or proposed features that would prevent construction of a building or use of the site for residential purposes.

The city council, following review by the planning commission, may grant an increase in density above five (5) percent. Such an increase will be allocated based on a finding that certain characteristics would: 1) result in substantial benefit to the users and the community as a whole, and 2) result in design excellence. Examples of residential design excellence include (but are not limited to): a traditional neighborhood layout and design, preservation of natural habitat and trees, preservation of the natural topography, and layout of lots so that they are integrated into a pedestrian oriented network that is interconnected to nonresidential uses and public transportation alternatives. Additional criteria that the planning commission and city council may consider in determining whether a density increase is warranted include the following:

(4) *Yard setbacks.* PD projects shall comply with the minimum yard setback requirements of the underlying zoning district. Modification to these yard setback requirements may be approved by the city council, upon recommendation from the planning commission, upon making the determination that other setbacks would be more appropriate because of the topography, existing trees and other vegetation, proposed grading and landscaping, or other existing or proposed site features.

(5) *Building height.* Buildings within a PD project shall comply with the following height requirements: residential buildings: thirty (30) feet; commercial and office buildings: thirty (30) feet; industrial buildings: thirty-five (35) feet. Modification to these building height requirements may be approved by

the city council, upon recommendation from the planning commission, upon making the determination that other building height requirements would be more appropriate because of the particular design and orientation of buildings.

(6) *Parking and loading.* PD projects shall comply with the parking and loading requirements specified in article IX of the zoning ordinance, except that off-street parking for separate buildings or uses may be provided collectively, subject to the following:

a. The total number of spaces provided collectively shall be based on evidence, consisting of projected hourly parking demand for each use, demonstrating that sufficient spaces will exist to meet parking needs at all times.

b. Each use served by collective off-street parking shall have direct access to the parking without crossing roads.

c. The collective off-street parking shall not be located farther than five hundred (500) feet from the building or use being served.

(7) *Landscaping.* PD project shall result in a higher quality of development than could be achieved under conventional zoning. At a minimum, PD projects shall comply with the landscaping requirements of article X.

a. *Design flexibility.* In consideration of the overall design and impact of a specific landscape plan, and in consideration of efforts to maintain the natural landscape, the planning commission may modify the specific landscape requirements outlined herein, provided that any such modifications are in keeping with the intent of this article.

(8) *Frontage and access.* PD projects shall front onto a paved major thoroughfare or collector road (as designated in the city's master plan) or state trunkline, and the main means of access to the development shall be via the major thoroughfare, collector road, or state trunkline. All roads fronting a planned development shall be paved.

a. Private roads are permitted in a PD project, provided that they comply with all requirements of the city's private road ordinance and are constructed in accordance with Wayne County specifications for paved roads.

b. Individual residential dwelling units in a PD project shall not have direct access onto a major thoroughfare, collector road, or state trunkline.

(9) *Natural features.* The development shall be designed to promote preservation of natural resources and natural features. If natural animal or plant habitats of significant value exist on the site, the planning commission or city council may require that the PD plan preserve the areas in a natural state and adequately protect them as open space preserves or passive recreation areas.

(10) *Bike paths and sidewalks.* A public bicycle path or sidewalk shall be required along adjoining principal arterial, minor arterial, and collector roads (as illustrated on the bicycle path and sidewalk master plan map). In addition, five-foot wide sidewalks shall be installed on both sides of streets or private roads within proposed subdivisions and single-family condominium developments and on both sides of streets or private roads within multiple family residential developments. Bicycle paths and sidewalks shall comply with the city's bicycle path and sidewalk ordinance.

(11) *Stormwater detention or retention.* Required stormwater detention or retention shall be provided in accordance with state, county and local statues. Open basins may be permitted and shall be incorporated into the landscaping or open space plan for the development so that they have the appearance of an appealing natural feature. Stormwater detention or retention shall comply with the city's engineering standards.

(12) *Additional considerations.* The planning commission shall take into account the following considerations, which may be relevant to a particular project: thoroughfare, drainage; utility design and capacity of the utility systems; road capacity; underground installation of utilities; insulating the pedestrian circulation system from vehicular thoroughfares and ways; achievement of an integrated development with respect to signage, lighting, landscaping and building materials; and, noise reduction and visual screening mechanisms, particularly in cases where nonresidential uses adjoin off-site residentially-zoned property or where mixed uses are permitted.

(13) *Industrial activity statement.* Industrial uses shall complete an industrial activity statement, as specified in section 36-342.

(Ord. No. H-07-01, § 16.08, 7-24-07)

Secs. 36-579—36-590. Reserved.

ARTICLE XVII. CONDITIONAL REZONING

Sec. 36-591. Intent.

The planning commission and city council have recognized that, in certain instances, it would be an advantage to both the city and property owners seeking rezoning if a site plan, along with conditions and limitations that may be relied upon by the city, could be proposed as part of a petition for rezoning. Therefore, it is the intent of this article to provide an election to property owners in connection with the submission of petitions seeking the amendment of this chapter for approval of a rezoning with conditions, per MCL 125.3405. This is to accomplish, among other things, the objectives of the zoning ordinance through a land development project review process based upon the site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.

(Ord. No. H-07-01, § 17.01, 7-24-07)

Sec. 36-592. Definitions.

The following definitions shall apply in the interpretation of this article:

Applicant shall mean the property owner, or a person acting with the written and signed authorization of the property owner to make application under this article.

CR shall mean a conditional rezoning, as authorized pursuant to MCL 125.3405.

CR agreement shall mean a written agreement approved and executed by the city and property owner, incorporating a CR plan, and setting forth rezoning conditions, conditions imposed pursuant to MCL 125.3405 and any other terms mutually agreed upon by the parties relative to land for which the city has approved a rezoning with rezoning conditions. Terms may include the following:

(1) Agreement and acknowledgment that the rezoning with rezoning conditions was proposed by the applicant to induce the city to grant the rezoning, and that the city relied upon such proposal and would not have granted the rezoning but for the terms spelled out in the CR agreement; and, further agreement and acknowledgment that the conditions and CR agreement are authorized by all applicable state and federal law and constitution, and that the agreement is valid and was entered into on a voluntary basis, and represents a permissible exercise of authority by the city.

(2) Agreement and understanding that the property in question shall not be developed or used in a manner inconsistent with the CR plan and CR agreement.

(3) Agreement and understanding that the approval and CR agreement shall be binding upon and inure to the benefit of the property owner and city, and their respective heirs, successors, assigns, and transferees.

(4) Agreement and understanding that, if a rezoning with rezoning conditions becomes void in the manner provided in this article, no development shall be undertaken or permits for development issued until a new zoning district classification of the property has been established.

(5) Agreement and understanding that each of the requirements and conditions in the CR agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the approved rezoning with rezoning conditions, taking into consideration the changed zoning district classification and the specific use authorization granted.

CR plan shall mean a plan of the property which is the subject of a rezoning with rezoning conditions, prepared by a licensed civil engineer or architect, that may show the location, size, height, design, architecture or other measure or feature for and/or buildings, structures, improvements and features on, and in some cases adjacent to, the property. The details to be offered for inclusion within the CR plan shall be determined by the applicant, subject to approval of the city council after recommendation by the planning commission.

Rezoning conditions shall mean conditions proposed by the applicant and approved by the city as part of an approval under this article, including review and recommendation by the planning commission, which shall constitute regulations for and in connection with the development and use of property approved with a rezoning condition in conjunction with a rezoning. Such rezoning conditions shall not authorize uses or developments of greater intensity or density and which are not permitted in the district proposed by the rezoning (and shall not permit uses or development expressly or implicitly prohibited in the CR agreement), and may include some or all of the following:

(1) The location, size, height or other measure for and/or of buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other features shown on the CR plan.

(2) Specification of maximum density or intensity of development and/or use, expressed in terms fashioned for the particular development and/or use, for example, and in no respect by way of limitation, units per acre, maximum usable floor area, hours of operation and the like.

(3) Preservation of natural resources and/or features.

(4) Facilities to address drainage/water quality.

(5) Facilities to address traffic issues.

(6) Preservation of open space.

(7) A written understanding for permanent maintenance of natural resources, features, and/or facilities to address drainage/water quality, traffic, open space and/or other features or improvements; and, provision for authorization and finance of maintenance by or on behalf of the city in the event the property owner(s) fail(s) to timely perform after notice.

(8) Signage, lighting, and landscaping of and/or building materials for the exterior of some or all structures.

(9) Permissible uses of the property.

(10) Preservation of historic buildings/structures to preserve the history of the City of Dearborn Heights.

(11) Donation of land for open space, using a land conservancy or other means, to protect the open space for future generations.

(12) Paving, making substantial improvements to, or funding of improvements to major city roads where the entire city benefits.

(13) Construction and/or donation of community buildings where the need has been identified and defined by the city.

(14) Provide usable and contiguous open space amounting to at least forty (40) percent of the site, using the concept of clustering.

(15) Added landscaping, above and beyond what is required by city ordinance.

(16) Reclamation and re-use of land, where previous use of land causes severe development difficulties, or has caused blight.

(17) Installation of streetscape on an arterial road, beyond what is required by ordinance, and where compatible with city guidelines concerning trees, streetlights, and landscaping.

(18) Drain and drainage improvements, beyond what is required by ordinance, using best management practices.

(19) Providing monuments or other landmarks to identify city boundaries.

(20) Such other conditions as deemed important to the development by the applicant.

(Ord. No. H-07-01, § 17.02, 7-24-07)

Sec. 36-593. Election and eligibility.

(a) *Option for conditional rezoning.* A property owner shall have the option of making an election under this article in conjunction with a submission of a petition seeking a rezoning. Such election shall be to seek a rezoning with rezoning conditions, pursuant to MCL 125.3405, which would represent a legislative amendment of the zoning ordinance.

(1) *Timing.* Such election may be made at the time of the application for rezoning is filed, or at a subsequent point in the process of review of the proposed rezoning.

(2) *Procedure.* The election shall be made by filing an application, conforming with this article, for approval of a conditional rezoning that would establish site-specific use authorization if the petition for rezoning is granted.

(b) *Eligibility.* In order to be eligible for the proposal and review of a rezoning with rezoning conditions, a property owner must propose a rezoning of property to a new zoning district classification, and must, as part of such proposal, voluntarily offer certain site-specific regulations (to be set forth on a CR plan and in a CR agreement to be prepared) which are, in material respects, equally or more strict or limiting than the regulations that would apply to the land under the proposed new zoning district, such as set forth in the definition of the "Rezoning conditions," subsections (1) through (20) found in section 36-592.

(Ord. No. H-07-01, § 17.03, 7-24-07)

Sec. 36-594. Procedure for application, review, and approval.

(a) *Pre-application meeting.* Before submitting an application for conditional rezoning, the applicant shall confer in a pre-application conference with the community development director, building official, the city planning consultant, the city engineering consultant, the city attorney, and all other appropriate city officials, including but not limited to police, fire and public works, and for proposals located within the TIFA district, the director of the TIFA. The purpose of such a conference is to obtain information and guidance regarding

land development regulations, the city's master plan, and the application process. The city attorney and city planning and engineering consultant's fees for any such pre-application conference shall be paid by the applicant.

(b) *Offer of conditions.* At the time of making application for amendment of this chapter seeking a rezoning of property, or at least a later time during the process of city consideration of such rezoning, a property owner may submit an application for approval of a conditional rezoning to apply in conjunction with the rezoning.

(c) *Application.* The application, which may be amended during the process, shall be submitted to the building department and shall include a CR plan proposed by the applicant and shall specify the rezoning conditions proposed by the applicant, recognizing that rezoning conditions shall not authorize uses or development not permitted in the district proposed by the rezoning. The application and CR plan shall be distributed in accordance with subsection 36-494(b).

(d) *Notice of public hearing.* The proposed rezoning with rezoning conditions, together, shall be noticed for public hearing before the planning commission, in accordance with section 36-481, as a proposed legislative amendment to the zoning ordinance.

(e) *Planning commission recommendation.* Following the public hearing and further deliberations as deemed appropriate by the planning commission, the planning commission shall make a recommendation to the city council on the proposed rezoning with rezoning conditions.

(f) *City council action.* Upon receipt of the recommendation of the planning commission, the city council shall commence deliberations on the proposed rezoning with rezoning conditions. If the city council determines that it may approve the rezoning with rezoning conditions, the city council shall specify tentative conditions and direct the city attorney to work with the applicant in the development of a proposed CR agreement.

(Ord. No. H-07-01, § 17.04, 7-24-07)

Sec. 36-595. Approval of rezoning with rezoning conditions.

(a) *City council authorized to approve.* Pursuant to MCL 125.3405, the city council, following public hearing and recommendation by the planning commission, may approve a petition for a rezoning with rezoning conditions requested by a property owner.

(b) *Required information.* As an integral part of the conditional rezoning, the following shall be reviewed and may be approved:

(1) *CR plan.* A CR plan, with such detail and inclusions proposed by the applicant and approved by the city council in accordance with this article, following recommendation by the planning commission. The CR plan shall not replace the requirement for site plan review and approval, or subdivision or condominium approval, as the case may be.

(2) *Statement of rezoning conditions.* Rezoning conditions, as defined for purposes of this article, which shall be required by the city council following recommendation by the planning commission. Rezoning conditions shall not authorize uses or development not permitted in the district proposed by the rezoning (and shall not permit uses or development expressly or implicitly prohibited in the CR agreement).

(3) *CR agreement.* A CR agreement, which shall be prepared by the city attorney and the applicant (or designee) and approved by the city council, and which shall incorporate the CR plan and set forth the rezoning conditions, together with any other terms mutually agreed upon by the parties (including the minimum provisions specified in the definition of CR agreement, above).

(c) *Zoning map designation.* If approved, the zoning district classification of the rezoned property shall consist of the district to which the property has been rezoned, accompanied by a reference to "CR conditional rezoning". The zoning map shall specify the new zoning district with a reference to "CR" (for example, the district classification for the property might be RM, multiple-family residential district, with CR, conditional zoning, with a zoning map designation of RM-CR) and use of the property so classified and approved shall be restricted to the permission granted in the CR agreement, and no other development or use shall be permitted.

(d) *Use of property.* The use of the property in question shall, subject to subsection (1) below, be in total conformity with all regulations governing development and use within the zoning district to which the property has been rezoned, including, without limitation, permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas, and land use density; provided, however, the following shall apply:

(1) *Primacy of CR plan.* Development and use of the property shall be subject to the more restrictive requirements shown or specified on the CR plan, and/or in the other conditions and provisions set forth in the CR agreement, required as part of the conditional rezoning approval, and such CR plan and conditions and CR agreement shall supersede all inconsistent regulations otherwise applicable under the zoning ordinance.

(e) *Review and approval criteria.* The applicant shall have the burden of demonstrating that the following requirements and standards are met by the CR plan, rezoning conditions, and CR agreement:

(1) *Objectives of conditional rezoning.* Approval of the application shall accomplish, among other things, and as determined in the discretion of the city council, the integration of the proposed land development project with the characteristics of the project area, and result in an enhancement of the project area as compared to the requested zoning change, and such enhancement would be unlikely to be achieved or would not be assured in the absence of the use of a conditional rezoning.

(2) *Basis for approval.* Sufficient conditions shall be included on and in the CR plan and CR agreement on the basis of which the city council concludes, in its discretion that, as compared to the existing zoning and considering the site specific land use proposed by the applicant, it would be in the public interest to grant the rezoning with rezoning conditions.

a. In determining whether approval of a proposed application would be in the public interest, the benefits which would reasonably be expected to accrue from the proposal shall be balanced against, and be found to clearly outweigh the reasonably foreseeable detriments thereof, taking into consideration reasonably accepted planning, engineering, environmental and other principles, as presented to the city council, following recommendation by the planning commission, and also taking into consideration the special knowledge and understanding of the city by the city council and planning commission.

(f) *Expiration.* Unless extended by the city council for good cause, the rezoning with rezoning conditions shall expire following a period of two (2) years from the effective date of the rezoning unless construction on the development of the property pursuant to the required permits issued by the city commences within such two-year period and proceeds diligently and in good faith as required by ordinance to completion.

(1) *Non-commencement.* In the event the development has not commenced, as defined above, within two (2) years from the effective date of the rezoning, the conditional rezoning, and the CR agreement shall be void and of no effect.

(2) *Extension of approval.* The property owner may apply to the city council for a one (1) year extension, provided that no other extension has been previously granted for the case. The request must be submitted to the city clerk before the two-year time limit expires. The property owner must show good cause as to why the extension should be granted.

(3) *Action in violation of agreement.* If development and/or actions are undertaken on or with respect to the property in violation of the CR agreement, such development and/or actions shall constitute a nuisance per se. In such cases, the city may issue a stop work order relative to the property and seek any other lawful remedies. Until curative action is taken to bring the property into compliance with the CR agreement, the city may withhold, or following notice and an opportunity to be heard, revoke permits and certificates, in addition to or in lieu of such other lawful action to achieve compliance.

(g) *City action upon expiration.* If the rezoning with rezoning conditions becomes void in the manner provided above, the city shall rezone the property in accordance with the procedures of the zoning ordinance. Until such a time as a new zoning district classification of the property has become effective, no development shall be undertaken or permits for development issued.

(Ord. No. H-07-01, § 17.05, 7-24-07)

Sec. 36-596. Effect of approval.

Approval of the CR plan and agreement confirms only the rezoning of the property, subject to any conditions imposed as reflected in the CR plan and after recordation as set forth in section 36-598. Approval of the usual site plan shall be required before any improvements to the property may be undertaken.

(Ord. No. H-07-01, § 17.06, 7-24-07)

Sec. 36-597. Amendment of conditional rezoning agreement.

Any amendment of a CR agreement shall be proposed, reviewed, and approved in the same manner as a new rezoning with rezoning conditions.

(Ord. No. H-07-01, § 17.07, 7-24-07)

Sec. 36-598. Recordation of conditional rezoning agreement.

A rezoning with rezoning conditions shall become effective following publication in the manner provided by law, and, after recordation of the CR agreement, whichever is later.

(Ord. No. H-07-01, § 17.08, 7-24-07)

Sec. 36-599. Fee.

The applicant for a rezoning with rezoning conditions shall pay, as a fee, the city's costs and expenses incurred by the city in the review of any preparation of documents for a rezoning with rezoning conditions. An escrow shall be established in an amount specified by city council resolution, and additional reasonable amounts shall be contributed as required in order to complete the process of review and approval. Any unexpended amounts from such escrow shall be returned to the applicant.

(Ord. No. H-07-01, § 17.09, 7-24-07)

Secs. 36-600—36-610. Reserved.

ARTICLE XVIII. NONCONFORMITIES

Sec. 36-611. Scope.

(a) *Intent and purpose.* Nonconformities are uses, structures, buildings, or lots which do not conform to one (1) or more provisions or requirements of this chapter or a subsequent amendment, but which were lawfully established prior to the time of adoption of the chapter or amendment. Such nonconformities are not compatible with the current or intended use of land in the district in which they are located. Therefore, it is the intent of this chapter to permit such nonconformities to continue under certain conditions, but to discourage their expansion, enlargement, or existence. Accordingly, the purpose of this section is to establish regulations that govern the completion, restoration, reconstruction, expansion, and/or substitution of nonconformities, and to specify the circumstances and conditions under which nonconformities shall be permitted to continue.

(b) *Summary.* The following table summarizes the nonconforming regulations contained in this article:

Summary of Nonconforming Regulations	
Issue	Requirements
Period of nonuse before nonconformity must cease	Nonconforming use: 180 days Nonconforming structure: 12 months
Establishment of new conforming use	Nonconforming use must cease
Change in ownership	No affect on nonconformity
Nonconforming single-family use	May be enlarged, subject to conditions
Substitution of one nonconformity for another	Permitted under certain conditions
Nonconformity lots under same ownership	Must be combined
Expansion of nonconforming use within building	Permitted subject to conditions
Expansion of nonconforming use beyond existing building	Not permitted
Enlargement of nonconforming structure	Not permitted
Maintenance, structural repairs	Generally permitted
Renovation, modernization	Maximum value: 25% of fair market value
Rebuilding after catastrophe of pre-catastrophe fair market value	Permitted if damage is less than 50%

(Ord. No. H-07-01, § 18.01, 7-24-07)

Sec. 36-612. Definitions.

For the purposes of this article, the following words and phrases shall have the meaning ascribed to them:

Effective date. Whenever this article refers to the "effective date," the reference shall be deemed to include the effective date of any amendments to this chapter if the amendments created a nonconforming situation.

Nonconforming building. A building or portion thereof that does not meet the limitations on building size, location on a lot, or other regulations for the district in which such building is located.

Nonconforming lot. A lot existing at the effective date of this chapter, or amendments thereof, that does not meet the minimum area or lot dimensional requirements of the district in which the lot is located.

Nonconforming sign. A sign that on the effective date of this chapter does not conform to one (1) or more regulations set forth in the chapter.

Nonconforming use. A use which was lawfully in existence at the effective date of this chapter, or amendment thereto, and which does not now conform to the use regulations of this chapter for the zoning district in which it is now located.

Structural nonconformity. A nonconformity that exists when the height, size, or minimum floor space of a structure, or the relationship between an existing building and other buildings or lot lines, does not conform to the standards of the district in which the property is located. Also sometimes referred to as a dimensional nonconformity.

(Ord. No. H-07-01, § 18.02, 7-24-07)

Sec. 36-613. General requirements.

The following regulations shall apply to all nonconforming uses, structures, and lots:

(1) *Continuation of nonconforming uses and structures.* Any lawful nonconforming use existing on the effective date of this chapter or amendment thereto may be continued and shall not be considered to be in violation of this chapter, provided that, unless otherwise noted in this article, the building and land involved shall neither be structurally altered, nor enlarged unless such modifications conform to the provisions of this chapter for the district in which it is located. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

(2) *Buildings under construction.* To avoid undue hardship, nothing in this chapter shall be deemed to require a change in plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has begun preparatory to rebuilding, such work shall be deemed to be actual construction, provided that such work shall be diligently carried on until completion of the building involved.

(3) Discontinuation of nonconforming uses and structures.

a. *Nonconforming structure.* When a nonconforming use of a structure, or structure and land in combination is discontinued or abandoned for twelve (12) consecutive months or discontinued for any period of time without a present intention to reinstate the nonconforming use, the structure or structure and land in combination shall not thereafter be used except in conformance with the provisions of the district in which it is located.

b. *Nonconforming uses of open land.* If any nonconforming use of open land ceases for any reason for a period of more than one hundred eighty (180) days, any subsequent use of such land shall conform to the provisions set forth of the district in which it is located.

c. *Seasonal uses.* In applying this subsection to seasonal uses, the time during the off-season shall not be counted.

(4) *Purchase or condemnation.* In order to accomplish the elimination of nonconforming uses and structures which constitute a nuisance or are detrimental to the public health, safety and welfare, the City of Dearborn Heights, pursuant to Section 208, Public Act 110 of 2006, as amended, may acquire by purchase, condemnation or otherwise, private property for the purpose of removal of nonconforming uses.

(5) *Recording of nonconforming uses and structures.* The building official shall be responsible for maintaining records of nonconforming uses and structures as accurate as is feasible, and for determining legal nonconforming uses and structures in existence on the effective date of this chapter. Failure on the part of a property owner to provide the building official with necessary information to determine legal nonconforming status may result in denial of required or requested permits.

(6) *Establishment of a conforming use or structure.* In the event that a nonconforming principal use or structure is superseded by a conforming principal use or structure on a site, the nonconforming use or structure shall be immediately and permanently removed.

(7) *Change of tenancy or ownership.* In the event there is a change in tenancy, ownership, or management, an existing nonconforming use or structure shall be allowed to continue provided there is no change in the nature or character of such nonconformity.

(8) *Exceptions and variances.* Any use for which a special exception or variance has been granted as provided in this chapter shall not be deemed a nonconformity.

(9) *Unlawful nonconformities.* No nonconformity shall be permitted to continue in existence if it was unlawful at the time it was established.

(10) *Substitution.* A nonconforming use may be changed to another nonconforming use upon approval of the zoning board of appeals provided that no structural alterations are required to accommodate the new nonconforming use, and that the proposed use is equally or more appropriate in the district than the existing nonconformity. In permitting such a change, the zoning board of appeals may require conditions to accomplish the purposes of this chapter.

(11) *Change of location.* Should a nonconforming structure be moved to another parcel or to another location on the same parcel for any reason whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(Ord. No. H-07-01, § 18.03, 7-24-07)

Sec. 36-614. Nonconforming lots of record.

The following regulations shall apply to any nonconforming lot of record or nonconforming lot described in a deed or land contract executed and delivered prior to the effective date of this chapter or amendment thereto:

(1) *Use of nonconforming lots.* Any nonconforming lot shall be used only for a use permitted in the district in which it is located. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot record of in existence at the effective date of adoption or amendment thereto. This provision shall apply even though such single-family lot fails to meet the requirements for area or width, or both, provided that:

a. The lot width, area, and open space are not less than seventy-five (75) percent of the requirements established for the district in which the lot is located, and

b. The lot can be developed as proposed without any significant adverse impact on surrounding properties or the public health, safety, and welfare.

c. Public water and sanitary sewer service shall be required for any use of a nonconforming lot.

(2) *Variance from area and bulk requirements.* If the use of nonconforming lot requires a variation from the area or bulk requirements, then such use shall be permitted only if a variance is granted by the zoning board of appeals.

(3) *Nonconforming contiguous lots under the same ownership.* If two (2) or more lots or combination of lots with contiguous frontage in single ownership are of record at the time of adoption or amendment of this chapter, and if all or part of the individual lots do not meet the requirements established for lot width and area, the lots involved shall be considered to be an individual parcel for the purposes of this chapter, provided that:

a. No portion of said parcel shall be used, occupied, or sold in a manner which diminishes compliance with lot width and area requirements established by this chapter, nor shall any division of a parcel be made which creates a lot with width or area less than the requirements stated in this chapter; and,

b. These provisions shall not apply to contiguous lots in single ownership where each of the lots is occupied by an existing home.

(4) *Combination of nonconforming lots.* Upon application to the city council, the city council may permit the combination, in whole or in part, of nonconforming lots of record into building sites less than the size requirements established by this chapter, provided that the combination of lots reduces the degree of nonconformity and results in a parcel which is capable of accommodating a structure that is in conformance with the building area, setback, and side yard requirements of this chapter.

(Ord. No. H-07-01, § 18.04, 7-24-07)

Sec. 36-615. Modification to nonconforming uses or structures.

No nonconforming use or structure shall be enlarged, expanded, or structurally altered, nor shall any nonconformity be changed to a different nonconformity which increases the intensity of use or nonconformity, except as specifically permitted by the regulations which follow:

(1) *Applicability.* The following regulations shall apply to any nonconforming use or structure, including:

a. Nonconforming uses of open land.

b. Nonconforming use of buildings designed for a conforming use.

c. Nonconforming use of buildings specifically designed for the type of use which occupies them but not suitable for a conforming use.

d. Buildings designed and used for a conforming use but not in conformance with area and bulk, parking, loading, or landscaping requirements.

e. Nonconforming structures, such as fences and signs.

(2) *Enlargement, expansion, or alteration.*

a. *Increase in nonconformity prohibited.* Except as specifically provided in this section, no person may engage in any activity that causes an increase in the degree of any nonconformity. For example, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:

1. An increase in the total amount of space devoted to a nonconforming use, or

2. Greater nonconformity with respect to dimensional restrictions, such as setback requirements, height limitations, density requirements, or other requirements in the district in which the property is located.

b. *Permitted expansion.* Any nonconforming use may be expanded throughout any part of a building which was manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be expanded to occupy any land outside such building. No

nonconforming use of land shall be enlarged, increased, or expanded to occupy a greater area of land, nor shall any such use be moved in whole or in part to any portion of the lot or parcel than was occupied on the effective date of this chapter or amendment thereto.

c. *Alterations that decrease nonconformity.* Any nonconforming structure or any structure or portion thereof containing a nonconforming use, may be altered if such alteration serves to decrease the nonconforming nature of the structure or use. The zoning board of appeals shall determine if a proposed alteration will decrease the degree of nonconformity.

d. *Variance to area and bulk requirements.* If a proposed alteration is deemed reasonable by the zoning board of appeals by virtue of the fact that it would decrease the nonconforming nature of a structure or use, but such alteration requires a variation of the area or bulk requirements, then such alteration shall be permitted only if a variance is granted by the zoning board of appeals.

(3) *Repairs, improvements, and modernization.*

a. *Required repairs.* Repairs or maintenance deemed necessary by the building official to keep a nonconforming building structurally safe and sound are permitted. However, if a non-conforming structure or a structure containing a nonconforming use becomes physically unsafe and/or unlawful due to lack of maintenance and repairs and is declared as such by the building official, it shall not thereafter be restored, repaired, or rebuilt except in full conformity with the regulations in the district in which it is located.

b. *Additional permitted improvements.* Additional repairs, improvements, or modernization of nonconforming structures, beyond what is required to maintain the safety and soundness of the structure, shall be permitted provided such repairs or improvements do not exceed twenty-five (25) percent of the market value (as determined by the city assessor) of the structure during any period of twelve (12) consecutive months. Any such repairs, improvements, and modernization shall not result in enlargement of the cubic content of the nonconforming structure. The provisions in this paragraph shall apply to all structures except as otherwise provided in this article for single-family residential uses and for reconstruction of structures damaged by fire or other catastrophe.

(4) *Damage by fire or other catastrophe.* Any nonconforming structure or structure housing a nonconforming use that is damaged by fire, flood, or other means in excess of fifty (50) percent of the structure's pre-catastrophe fair market value (as determined by the city assessor) shall not be rebuilt, repaired, or reconstructed, except in complete conformity with the provisions of this chapter.

a. *Restoration. In* the event that the damage is less than fifty (50) percent of the structure's pre-catastrophe fair market value, the structure may be restored to its pre-catastrophe status. Such restoration shall take place only upon approval of the zoning board of appeals and in full compliance with applicable provisions of this chapter.

b. *Reconstruction of single-family uses.* Any structure used for single-family residential purposes and maintained as a nonconforming use may be replaced with a similar structure on the same foundation in the event of damage by fire or other catastrophe, regardless of the extent of the damage.

(Ord. No. H-07-01, § 18.05, 7-24-07)